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INDEPENDENT JURY SYSTEM

HEARING AND MARKUPS

BEFORE THE

SUBCOMMITTEE ON
JUDICIARY AND EDUCATION

AND THE

COMMITTEE ON
THE DISTRICT OF COLUMBIA
HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

ON

H.R. 2717 and Clean Bill, H.R. 2946

TO ESTABLISH AN INDEPENDENT JURY SYSTEM FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

JUNE 26 AND OCTOBER 22, 1985

SERIAL NO. 99-6

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STAFF SUMMARY OF FINDINGS AND CONCLUSIONS

H.R. 2946 proposes to establish an independent jury system for the District of Columbia Superior Court. Specifically, it would amend title 11 of the District of Columbia Code to transfer administration over local juries from the U.S. District Court to the D.C. Superior Court. Further, should this legislation become law, the D.C. Board of Judges have agreed and are prepared to implement a 1-day/one-trial jury participation. This system is expected to create a more efficient and practical jury system in the District of Columbia.

Several witnesses testified at the hearing, including representatives from the city council, city corporation counsel's office, District of Columbia courts, U.S. District Court and the D.C. Bar Association.

There was a bipartisan consensus among subcommittee and committee members in support of this legislation. Based on testimony presented and certain substantive amendments, members agreed that H.R. 2946 was in the interest of self-government for District of Columbia citizens; the single Federal-local jury system was antiquated and unsupported by practices in all other jurisdictions where Federal and State courts coexist.

Equally important, committee members found that certain provisions in this bill would maximize efficiency, limit traditional impositions on the average juror, expand the pool of eligible jurors on a more equal basis and enhance the quality of management and control over the local jury system.

Of note, the U.S. Justice Department opposed this legislation at the time of the legislative hearing and markup of H.R. 2946. However, since that time the Department has formally withdrawn its objections.

HEARING ON H.R. 2717—TO ESTABLISH AN INDEPENDENT JURY SYSTEM FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

WEDNESDAY, JUNE 26, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON JUDICIARY AND EDUCATION,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, DC.

The subcommittee met, pursuant to call, at 9:05 a.m., in room 1310, Longworth House Office Building, Hon. Mervyn M. Dymally (chairman of the subcommittee) presiding.

Present: Representatives Dymally and Bliley.

Also present: Edward C. Sylvester, Jr., staff director; Donald M. Temple, senior staff counsel; Ronald Wood, intern; John Gnorski, minority staff director; and Ronald Hamm, minority staff assistant.

[The bill, H.R. 2717, follows:]

I

99TH CONGRESS
1ST SESSION

H. R. 2717

To establish an independent jury system for the Superior Court of the District of Columbia.

IN THE HOUSE OF REPRESENTATIVES

JUNE 11, 1985

Mr. DYMALLY introduced the following bill; which was referred to the Committee on the District of Columbia

---

A BILL

To establish an independent jury system for the Superior Court of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Jury System Act".

SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA JURY SYSTEM.

Chapter 19 of title 11 of the District of Columbia Code is amended to read as follows:

"CHAPTER 19. JURIES AND JURORS

Sec.
"11-1901. Declaration of policy.
"11-1902. Definitions.
"11-1903. Prohibition of discrimination.
"11-1904. Jury system plan.
"11-1905. Master juror list.
"11-1906. Qualification of jurors.
"11-1907. Summoning of prospective jurors.
"11-1908. Exclusion from jury service.
"11-1909. Deferral from jury service.
"11-1910. Challenging compliance with selection procedures.
"11-1911. Length of service.
"11-1912. Juror fees.
"11-1913. Protection of employment of jurors.
"11-1914. Preservation of records.
"11-1915. Fraud in the selection process.
"11-1916. Grand jury; additional grand jury.
"11-1917. Coordination and cooperation of courts.
"11-1918. Effect of invalidity.

"CHAPTER 19. JURIES AND JURORS

"§ 11-1901. Declaration of policy.

"A jury selection system is hereby established for the Superior Court of the District of Columbia. All litigants entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the residents of the District of Columbia. In accordance with the provisions of this chapter, all qualified individuals shall have the opportunity to be considered for service on grand and petit juries in the District of Columbia and shall be obligated to serve as jurors when summoned for that purpose.

"§ 11-1902. Definitions.

"For purposes of this chapter, the following terms have the following meanings:

"(1) The term 'Board of Judges' means the chief judge and the associate judges of the Superior Court of the District of Columbia.

"(2) The term 'chief judge' means the chief judge of the Superior Court of the District of Columbia.

"(3) The term 'clerk' means the clerk of the Superior Court of the District of Columbia or any deputy clerk.

"(4) The term 'Court' means the Superior Court of the District of Columbia and may include any judge of the Court acting in an official capacity.

"(5) The term 'juror' means (A) any individual summoned to Superior Court for the purpose of serving on a jury; (B) any individual who is on call and available to report to Court to serve on a jury upon request; and (C) any individual whose service on a jury is temporarily deferred.

"(6) The term 'jury' includes a grand or petit jury.

"(7) The term 'jury system plan' means the plan adopted by the Board of Judges of the Court, consistent with the provisions of this chapter, to govern the administration of the jury system.

"(8) The term 'master juror list' means the consolidated list or lists compiled and maintained by the

Board of Judges of the District of Columbia Courts which contains the names of prospective jurors for service in the Superior Court of the District of Columbia.

"(9) The term 'random selection' means the selection of names of prospective jurors in a manner immune from the purposeful or inadvertent introduction of subjective bias, so that no recognizable class of the individuals on the list or lists from which the names are being selected can be purposefully or inadvertently included or excluded.

"§ 11-1903. Prohibition of discrimination.

"A citizen of the District of Columbia may not be excluded or disqualified from jury service as a grand or petit juror in the District of Columbia on account of race, color, religion, sex, national origin, ancestry, economic status, marital status, age, or (except as provided in this chapter) physical handicap.

"§ 11-1904. Jury System Plan.

"(a) The Board of Judges shall adopt, implement, and as necessary modify, a written jury system plan for the random selection and service of grand and petit jurors in the Superior Court consistent with the provisions of this chapter. The plan shall include—

"(1) detailed procedures to be followed by the clerk of the Court in the random selection of names from the master juror list;

"(2) provisions for a master jury wheel (or other device of like purpose and function) which shall be emptied and refilled at specified intervals, not to exceed 24 months;

"(3) provisions for the disclosure to the parties and the public of the names of individuals selected for jury service, except in cases in which the chief justice determines that confidentiality is required in the interest of justice; and

"(4) procedures to be followed by the clerk of the Court in assigning individuals to grand and petit juries.

"(b) The jury system plan shall be administered by the clerk of the Court under the supervision of the Board of Judges.

"§ 11-1905. Master juror list.

"(a) The jury system plan shall provide for the compilation and maintenance by the Board of Judges of a master juror list from which names of prospective jurors shall be drawn. Such master juror list shall consist of the list of District of Columbia voters, the list of District of Columbia licensed drivers, individuals who submit their names to the Court for inclusion on the master juror list, and names from

such other appropriate sources and lists as may be provided in the jury system plan.

"(b) Notwithstanding any other provision of law, upon request of the Board of Judges any person having custody, possession, or control of any list required under subsection (a) shall provide such list to the Court, at cost, at all reasonable times. Each list shall contain the names and addresses of individuals on the list. Any list obtained by the Court under the provisions of this chapter may be used by the Court only for the selection of jurors pursuant to this chapter.

"(c) Not less than once each year, the Board of Judges shall give public notice to the citizens of the District of Columbia that individuals may be included on the master juror list by submission of their names and addresses to the clerk of the Court. Such public notice shall be given through such means as will reasonably assure as broad a dissemination as possible.

"§ 11-1906. Qualification of Jurors.

"(a) The jury system plan shall provide for procedures for the random selection and qualification of grand and petit jurors from the master juror list. Such plan may provide for separate or joint qualification and summoning processes.

"(b)(1) An individual shall be qualified to serve as a juror if that individual—

"(A) is a resident of the District of Columbia;

"(B) is a citizen of the United States;

"(C) has attained the age of 18 years; and

"(D) is able to read, speak, and understand the English language.

"(2) An individual shall not be qualified to serve as a juror—

"(A) if determined to be incapable by reason of physical or mental infirmity of rendering satisfactory jury service; or

"(B) if that individual has been convicted of a felony or has a pending felony or misdemeanor charge, except that an individual disqualified for jury service by reason of a felony conviction may qualify for jury service not less than one year after the completion of the term of incarceration, probation, or parole following appropriate certification under procedures set out in the jury system plan.

"(3) Any determination regarding qualification for jury service shall be made on the basis of information provided in the juror qualification form and any other competent evidence.

"(c)(1) The jury system plan shall provide that a juror qualification form be mailed to each prospective juror. The form and content of such juror qualification form shall be de-

termined under the plan. Notarization of the juror qualification form shall not be required.

"(2) An individual who fails to return a completed juror qualification form as instructed may be ordered by the Court to appear before the clerk to fill out such form, to appear before the Court and show cause why he or she should not be held in contempt for failure to submit the qualification form, or both. An individual who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $500 or by imprisonment for not more than seven days, or by both.

"(d) An individual who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be punished by a fine of not more than $1,000, by imprisonment for not more than 30 days, or both.

"§ 11-1907. Summoning of Prospective Jurors.

"(a) At such times as are determined under the jury system plan, the Court shall summon or cause to be summoned from among qualified individuals under section 11-1906 sufficient prospective jurors to fulfill requirements for petit and grand jurors for the Court. A summons shall require a prospective juror to report for possible jury service at a specified time and place unless advised otherwise by the

Court. Service of prospective jurors may be made personally or by first-class, registered, or certified mail as determined under the plan.

"(b) A prospective juror who fails to appear for jury duty may be ordered by the Court to appear and show cause why he or she should not be held in contempt for such failure to appear. A prospective juror who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $1,000 or by imprisonment for not more than seven days, or by both.

"§ 11-1908. Exclusion from jury service.

"(a) Subject to the provisions of this section and of sections 11-1903, 11-1906, and 11-1909, no individual or class of individuals may be disqualified, excluded, excused, or exempt from service as a juror.

"(b) An individual summoned for jury service may be: (1) excluded by the Court on the ground that that individual may be unable to render impartial jury service or that his or her service as a juror would be likely to disrupt the proceedings; (2) excluded upon peremptory challenge as provided by law; (3) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or (4) excluded upon determination by the Court that his or her service as a juror would be likely to threaten the secrecy of

the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (4) of this subsection unless the judge, in open Court, determines that such exclusion is warranted and that exclusion of that individual will not be inconsistent with sections 11-1901 and 11-1903 of this chapter.

"(c) An individual excluded from a jury shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to his or her ability to serve on such other jury. The procedures for challenges to and review of exclusions from jury service shall be set forth in the jury system plan.

"§ 11-1909. Deferral from jury service.

"A qualified prospective juror may be deferred from jury service only upon a showing of undue hardship, extreme inconvenience, public necessity, or temporary physical or mental disability which would affect service as a juror. The procedure for requesting a deferral from jury service and the procedure and basis for granting a deferral shall be set forth in the master jury plan.

"§ 11-1910. Challenging compliance with selection procedures.

"(a) A party may challenge the composition of a jury by a motion for appropriate relief. A challenge shall be brought and decided before any individual juror is examined, unless

the Court orders otherwise. The motion shall be in writing, supported by affidavit, and shall specify the facts constituting the grounds for the challenge. If the Court so determines, the motion may be decided on the basis of the affidavits filed with the challenge. If the Court orders trial of the challenge, witnesses may be examined on oath by the Court and may be so examined by either party.

"(b) If the Court determines that in selecting a grand or petit jury there has been a substantial failure to comply with this chapter, the Court shall stay the proceedings pending the selection of a jury in conformity with this chapter, quash the indictment, or grant other appropriate relief.

"(c) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the District of Columbia, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter. Nothing in this section shall preclude any person from pursuing any other remedy, civil or criminal, which may be available for the vindication or enforcement of any law prohibiting discrimination on account of race, color, religion, sex, national origin, economic status, marital status, age, or physical handicap in the selection of individuals for service on grand or petit juries.

"§ 11-1911. Length of service.

"The length of service for grand and petit jurors shall be determined by the master jury plan. In any twenty-four month period an individual shall not be summoned more than once to serve as a grand or petit juror except as may be necessary by reason of the insufficiency of the master juror list or as ordered by the Court.

"§ 11-1912. Juror fees.

"(a) Grand and petit jurors serving in the Superior Court shall receive fees and expenses at rates established by the District of Columbia Council, except that such fees and expenses may not exceed the respective rates paid to such jurors in the federal system.

"(b) A petit or grand juror receiving benefits under the laws of employment security of the District of Columbia shall not lose such benefits on account of performance of juror service.

"(c) Employees of the United States or of any State or local government who serve as grand or petit jurors and who continue to receive regular compensation during the period of jury service shall not be compensated for jury service. Amounts representing reimbursement of expenses incurred in connection with jury service may be paid to such employees to the extent provided in the jury system plan.

"§ 11-1913. Protection of employment of jurors.

"(a) An employer shall not deprive an employee of employment, threaten, or otherwise coerce an employee with respect to employment because the employee receives a summons, responds to a summons, serves as a juror, or attends Court for prospective jury service.

"(b) An employer who violates subsection (a) is guilty of criminal contempt and upon a finding of criminal contempt may be fined not more than $5,000, imprisoned for not more than 180 days, or both.

"(c) If an employer discharges an employee in violation of subsection (a), the employee within 9 months of such discharge may bring a civil action for recovery of wages lost as a result of the violation, for an order of reinstatement of employment, and for damages. If an employee prevails in an action under this subsection, that employee shall be entitled to reasonable attorney fees fixed by the court.

"§ 11-1914. Preservation of records.

"(a) All records and lists compiled and maintained in connection with the selection and service of jurors shall be preserved for the length of time specified in the jury system plan.

"(b) The contents of any records or lists used in connection with the selection process shall not be disclosed, except in connection with the preparation or presentation of a motion under § 11-1910, or until all individuals selected to

serve as grand or petit jurors from such lists have been discharged.

"§ 11-1915. Fraud in the selection process.

"An individual who commits fraud in the processing or selection of jurors or prospective jurors, either by causing any name to be inserted into any list maliciously or by causing any name to be deleted from any list maliciously (including malicious data entry or the altering of any data processing machine or any set of instructions or programs which control data processing equipment for such malicious purpose), is guilty of the crime of jury tampering, and, upon conviction thereof, may be punished by a fine of not more than $10,000 or imprisonment for not more than two years, or by both. This section shall not limit any other provisions of law concerning the crime of jury tampering.

"§ 11-1916. Grand jury; additional grand jury.

"(a) A grand jury serving in the District of Columbia may take cognizance of all matters brought before it regardless of whether an indictment is returnable in the Federal or District of Columbia courts.

"(b) If the United States Attorney for the District of Columbia certifies in writing to the chief judge that an additional grand jury is required, the judge may in his or her discretion order an additional grand jury summoned which shall be drawn at such time as he or she designates. Unless

discharged by order of the judge, the additional grand jury shall serve until the end of the term for which it is drawn.

"§ 11-1917. Coordination and Cooperation of Courts.

"To the extent feasible, the Superior Court and the United States District Court shall consider the respective needs of each court in the qualification, selection, and service of jurors. Nothing in this chapter shall be construed to prevent such courts from entering into any agreement for sharing resources and facilities (including automated data processing hardware and software, forms, postage, and other resources).

"§ 11-1018. Effect of Invalidity.

"If any provision of this Act or the application of that provision is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

Section 1869(f) of title 28, United States Code, is amended by striking out "except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia".

SEC. 4. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the provisions of this Act shall take effect one year after the date of enactment of this Act.

(b) The Board of Judges shall have authority to promulgate and adopt a jury system plan in accordance with this Act and the Court and the clerk of the Court shall have authority to take all necessary actions preliminary to the assumption of the administration of an independent jury system under this Act.

Mr. DYMALLY. Good morning. The Subcommittee on Judiciary and Education of the District of Columbia Committee is hereby called to order.

Today's subcommittee hearing is convened to consider H.R. 2717, a bill introduced to establish an independent jury system for the District of Columbia.

Presently, under Federal law, the U.S. District Court for the District of Columbia operates a single jury selection system for both the Federal and local trial courts. This system is outdated and at times inefficient.

H.R. 2717 would amend title 11 of the District of Columbia Code to transfer control over local juries from the U.S. District Court to the District of Columbia Superior Court. H.R. 2717 makes several important changes. Cumulatively, these changes would give the District government an independent and more efficient jury system.

Further, to enhance the efficiency and quality of the administration of justice in local courts, the superior court has adopted a 1-day/one-trial jury system which it would implement if this legislation passes. Under a 1-day/one-trial approach, the superior court would select jurors from an increased pool of prospective jurors. Jurors would serve only 1 day or the duration of one trial instead of the current 2-week jury service requirement. Overall, there would be broader citizen participation and less juror inconvenience.

I am told that often members sit there for a week or more without any particular assignment.

While not legislatively required, the superior court's experiment with 1-day/one-trial is encouraged in our effort to create a competent and efficient jury system for the District of Columbia. We expect to improve H.R. 2717 consistent with certain insightful comments that we have received and may receive today.

Other witnesses include Mrs. Inez Reid, the city's corporation counsel; Councilmember Wilhelmina Rolark, chairperson of the city council judiciary committee; Mr. Larry Polansky, executive officer, D.C. Superior Court; Charles Horsky, Council for Court Excellence; and John Turner of the Washington Bar Association.

Council Chairman David Clarke, Chief Judge Aubrey Robinson of the U.S. District Court, the Greater Washington Board of Trade, and the Division IV Legislation Committee of the District of Columbia Bar have submitted written statements which will be included in the record. Without objection, so ordered.

[The prepared statements follow:]

COUNCIL OF THE DISTRICT OF COLUMBIA

WASHINGTON, D. C. 20004

STATEMENT OF DAVID A. CLARKE
CHAIRMAN, COUNCIL OF THE DISTRICT OF COLUMBIA
BEFORE THE SUBCOMMITTEE ON JUDICIARY AND EDUCATION
OF THE HOUSE COMMITTEE ON THE DISTRICT OF COLUMBIA
JUNE 24, 1985

Mr. Chairman and members of the Subcommittee, I appreciate the opportunity to present testimony on H.R. 2717, a bill to establish an independent jury system for the Superior Court of the District of Columbia. The jury system used in the Superior Court has been of great concern and interest to me for many years and as such I am pleased to offer testimony with respect to this important issue.

One of the more difficult issues that I faced during my tenure as chairperson of the Council's Committee on the Judiciary related to the operation of the jury system in Superior Court. During that time, I frequently received complaints from citizens who had been called for jury duty. The complaint I heard most often was that the majority of their time on jury duty was spent waiting to be called. Many never got to serve on a jury despite the fact that they were required to report to the courthouse every day of the assigned period, which at the time was 30 days, and had to spend the duration of the day waiting at the courthouse. The most frustrating aspect of the problem from the Council's perspective was that there was little that the Council could do to remedy the situation.

As you are aware, provisions in the Home Rule Act restrict the

Council from enacting any act, resolution or rule with respect to Title 11 of the District of Columbia Code relating to the organization and jurisdiction of the District of Columbia Courts. The provisions of the code relating to juries is contained in chapter 19 of Title 11, and consequently the Council's authority to act legislatively in this area was open to question.

We were able to raise some of the problems associated with the operation of the jury system during our examination of the city's budget. However, even in the context of the budget, the Council had little authority to directly address the issue. During the budget process, the city would be asked to pay for jurors' fees but had no ability to oversee how the funds were used. In light of the complaints that I had received from constituents, it was my view that the size of the jury pools should be reduced or that the length of time served by a juror should be reduced. Eventually the time served was reduced from 30-days to a 2 week system.

I have no objection to the passage of H.R. 2717. However, I note that it is the Congress which must act in order to accomplish this result. In other jurisdictions, the enabling legislation to affect this change in the local courts would be enacted by the local legislature. This, to me, is the true question of Home Rule which is not addressed by the bill. I hope that, in the near future, the Congress will consider adopting an amendment to the Home Rule Act which will give the Council full jurisdiction over Title 11 of the code and thus create the same relationship between the legislature and the judiciary in the District of Columbia as exists in almost every other jurisdiction in the Nation.

Thank you for the opportunity to testify with respect to H.R. 2717.

United States District Court
for the District of Columbia
Washington, D. C. 20001

Aubrey E. Robinson, Jr.
Chief Judge

June 21, 1985

The Honorable Mervyn M. Dymally
Chairman
Subcommittee on Judiciary
and Education
Room 1310
Longworth House Office Building
Washington, D. C. 20515

Dear Congressman Dymally:

Your invitation to testify at the June 26, 1985 hearing on H.R. 2717, a bill to establish an independent jury system for the Superior Court of the District of Columbia, is very much appreciated. Although I am not available to testify, I would like to offer the following comments.

The United States District Court for the District of Columbia strongly supports the establishment of a separate jury system for the Superior Court of the District of Columbia. We believe if the two Court's work cooperatively, this system will better serve Superior Court in its effort to implement the one trial/one day jury system.

However, I cannot stress strongly enough the necessity of § 11-1917, Coordination and Cooperation of Courts. Two large metropolitan courts will be utilizing the relatively small population of the District of Columbia as jurors. The master plan of the Superior Court must address the provisions made for those jurors who have been summoned for appearance in both courts simultaneously.

A highly visible public awareness campaign must be conducted to inform the citizens of the District of Columbia of the significant changes to the jury system. A great deal of confusion already exists in the community about the differences between the two Courts.

I fully concur with the proposed testimony of Larry P. Polansky, Executive Officer of the District of Columbia Courts. In particular, I share his concern about the statutory inclusion of individuals who volunteer for jury service. It is my personal and professional opinion that volunteers should not be accepted. However, if they are to be included, the master jury plan is the most appropriate vehicle.

Again, H.R. 2717 is a feasible and fully supported plan. Cooperation and coordination between the Courts and citizen awareness of the change are major components to its success. We look forward to working with the Superior Court on the implementation of the bill.

Sincerely,

Aubrey E. Robinson, Jr.
Chief Judge

The Greater Washington

Board of Trade

Linking Business and Community in The District of Columbia, Northern Virginia and Suburban Maryland

Retail Bureau

Chairman
Robert G. Vandemark
Chairman and Chief Executive Officer Garfinckel's

Vice Chairman
Randolph Garfield
Vice President Rosendorf/Evans

Manager
Garry R. Curtis

Assistant Manager
Dianne L. J. Brown

June 20, 1985

The Honorable Mervyn M. Dymally
Chairman, Subcommittee on Judiciary and Education
Committee on the District of Columbia
Longworth House Office Building
Room 1717
Washington, D.C. 20515

Dear Congressman Dymally:

The Greater Washington Board of Trade, a regional business advocacy organization with more than 1,400 corporate members in Maryland, Virginia and the District of Columbia, strongly supports the implementation of one trial/one day jury duty in D.C. Superior Court. Your legislation, H.R. 2717, to establish an independent jury system for the Superior Court is an essential step in the right direction.

Implementation of the one trial/one day jury service will:

-- eliminate the present burdens and considerable inconvenience citizens and businesses now experience in the two week jury term;

-- increase the total number of citizens called for jury duty, in turn providing increased understanding and respect of the court system;

-- virtually eliminate the need some employers have for seeking employee exemptions because it will reduce time away from work;

-- increase the representativeness of the jury pool by eliminating most statutory exemptions; and,

-- improve the flexibility and responsiveness of the jury system to changes in the operation of the Court.

The Board of Trade believes that the additional administrative costs of implementing the one trial/one day jury duty term should be addressed by reducing the jury duty fee. The District of Columbia now has one of the highest jury fees in the nation, certainly the highest in the greater Washington area.

The attached survey of several representative businesses in the District further supports a reduction in jury fees. In nearly every case, responsible businesses continue to pay salaried and hourly employees when they serve jury duty. The resultant "double pay" is difficult to justify and adds to the incentive to reduce jury fees.

The initiative and leadership of the D.C. Superior Court, and your leadership in providing enabling legislation, will materially increase the number of citizens serving on jury duty each year. By distributing this vital civic responsibility across the entire community, and shortening the term to one trial or one day, the adverse impact on individual citizens and businesses will be eliminated.

Sincerely,

Duane B Adams

Duane B. Adams
Chairman
Public Protection Committee

Chairman
The Acacia Group

Enclosure

1985 RETAIL BUREAU SURVEY

Jury Duty/Pay Policies

Status of Employee	Company Pays Employee When On Jury Duty	Regular Wages Paid Plus Jury Duty Pay	Regular Wages Paid Minus Jury Duty Pay	Regular Wages Not Paid
Fulltime Management	6	6	1	
Fulltime Hourly	7	6	1	1
Parttime Hourly	4	4		1
Seasonal	(3 Companies who hire them have no policy			1
Temporary	on Seasonal and Temporary employees)			1

Comments:

1. One company requests return of jury duty pay over and above expenses, which include travel, parking and meals.

2. After one week of jury duty, one company reserves the right to collect jury pay.

3. Two companies usually request and are granted exemptions for store manager, since jury duty imposes hardships on all store management personnel.

4. None of these companies charges their employees' jury duty to sick leave or annual leave.

5. One company pays its executives for jury duty up to 2 weeks minus the jury pay.

STATEMENT OF THE LEGISLATION COMMITTEE OF DIVISION IV OF THE D.C. BAR REGARDING H.R. 2717, A BILL TO ESTABLISH AN INDEPENDENT JURY SYSTEM FOR THE DISTRICT OF COLUMBIA SUPERIOR COURT

Ellen Bass, Co-Chair
David J. Hayes, Co-Chair
John T. Boese
Gerald P. Greiman
Richard B. Hoffman
Arthur B. Spitzer

Richard B. Nettler, Chair*
Joel P. Bennett
Leo N. Gorman
William A. Grant
Lutz Alexander Prager
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Steering Committee, Division IV (Courts, Lawyers and the Administration of Justice), D.C. Bar

Dated: June 18, 1985

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STANDARD DISCLAIMER

"The views expressed herein represent only those of Division IV: Courts, Lawyers, and the Administration of Justice of the D.C. Bar and not those of the D.C. Bar or of its Board of Governors."

The Legislation Committee of Division IV of the District of Columbia Bar, which is concerned with courts, lawyers and the administration of justice, has studied H.R. 2717 which would establish an independent jury system for the Superior Court of the District of Columbia. The Legislation Committee strongly supports legislation which will provide the District of Columbia with control over the jury system its local courts must utilize. It is only proper that, instead of being tied to a jury system it has no control over, and, indeed, one which has too many exemptions, the District's local courts be able to assess what is appropriate for the fair and efficient administration of justice in its courts. Thus, the proposed statute broadens the base from which jurors may be selected and deals creatively with many of the problems that the present jury system has created.

However, while the Committee generally endorses the provisions of H.R. 2717 and the separation of the District's jury system from that provided the federal district courts, the Committee regrets that the proposed Bill does not provide that the length of service shall be one day or one trial. This provision would reduce the hardship on employed and self-employed persons who may not be able to earn any salary or wages while serving as a juror. While the Legislation Committee recognizes that in proposed § 11-1911 the Board of Judges, through the master jury plan, could provide for such service, we submit that the propsed Bill should instead explicitly provide for the one day - one trial concept and permit the Board of Judges to make

changes only if it finds that such a system is not adequately serving the court's needs. In addition, the Legislation Committee submits the following suggestions and comments:

1. Proposed §§ 11-1906(c)(2), (d) & 11-1907(b). Failure to appear or return form; misrepresentation; contempt. We recommend that the fines contained in the subsections for prospective jurors who either fail to appear for jury duty, return a completed juror qualification form or who intentionally misrepresent a material fact on the form should be reduced from $500 in section 11-1906(c)(2), and $1000 in section 11-1906(d) and section 11-1907(b) to $300. A fine of $300 will serve as an effective deterrent, and such fine will remove the offenses described in this section from the category of offenses for which a defendant may demand a jury trial. See D.C. Code § 16-705(b) (1981). The Legislation Committee proposes this recommendation because it believes that the entitlement to a jury trial in such cases will only add to an already existing backlog in the Criminal Division of the Superior Court and will remove the prospect of having sitting jurors decide whether prospective jurors have committed an offense. Such a decision would seem to be more appropriately made by a trial judge. It should be noted, however, that the maximum term of imprisonment could be increased to as much as 90 days (and to 6 months in the case of contempt of court) and still be within the non-jury trial limits set by D.C. § 16-705(b). However, the Committee believes that the proposed term of imprisonment provided in subsections (c)(2) and (d) serve as an effective deterrent. In that regard, Congress should

review the prison penalties and fines provided in the Maryland Code. There the failure to return a juror qualification form or the failure to appear for jury service carries a $100 fine or 3 days in jail or both, and one who wilfully misrepresents facts on the juror qualification form can be fined $500 or sentenced to 30 days in jail or both.1/

3. Proposed § 11-1910(c). Challenging compliance with selection procedures. There is no apparent reason why the United States, which still prosecutes felonies and misdemeanors, should not also be listed as a party who may challenge a jury on the ground that the jury was not selected in conformity with the jury statute. Accordingly, the Committee suggests adding the words "the United States" after the words "District of Columbia" in proposed § 11-1910(c).

4. Proposed § 11-1913. Protection of Juror's Employment. Here the Committee agrees that a substantial fine, such as the $5000 fine provided in the proposed section, is appropriate as a deterrent to employers who may be contemplating actions which would inhibit their employees' ability to serve as jurors. Unlike proposed sections 11-1906 and 11-1907, it is not likely that an employer being prosecuted for a violation of this proposed section would seek a jury trial and, thus, add to the court's backlog.

1/ Md. Code Ann., Courts and Judicial Proceedings, §§ 8-401(b) and (c).

5. In light of the fact that the proposed jury statute provides for criminal penalties -- proposed sections 11-1906, 11-1907, 11-1913 and 11-1915 contain fines and prison terms -- there may be some question regarding whether it is the United States or the District of Columbia which prosecutes these offenses. See D.C. Code § 23-101 (1981). The Committee recommends adding a section at the end of the proposed statute which states: "All prosecutions under this chapter shall be conducted in the name of the District of Columbia by the Corporation Counsel."

6. The Committee also recommends that H.R. 2717 contain a provision which amends D.C. Code § 16-705(c) (1981) to provide, after the first sentence, as Rule 23(b) of the Federal Rules of Criminal Procedure does, that "Even absent such agreement , if the court finds it necessary to excuse a juror for just cause after the jury has retired to consider its verdict, in the discretion of the court a valid verdict may be returned by the remaining 11 jurors." This would alleviate some problems with section 16-705(c) that have recently been brought to the Legislation Committee's attention.

The Legislation Committee of the D.C. Bar appreciates the opportunity to express its views on this important piece of legislation.

Mr. DYMALLY. I would like to thank you for taking the time to testify and we look forward to your testimony.

Our first witness is the corporation counsel, Mrs. Reid.

Mrs. Reid, welcome to our committee. You are free to summarize your testimony, if you wish, and it will be placed in the record without objection.

STATEMENT OF INEZ SMITH REID, CORPORATION COUNSEL, DISTRICT OF COLUMBIA, ACCOMPANIED BY THOMAS BASTOW, CHIEF, LEGISLATION OPINION SECTION; AND JANE PETKOFSKY, STAFF ATTORNEY

Mrs. REID. Thank you, sir.

I have with me Mr. Thomas Bastow, who is the chief of our legislation opinion section, and Miss Jane Petkofsky, who is a staff attorney in that particular section.

Mr. Chairman, I am, indeed, pleased to appear before you again, this time to testify on behalf of Mayor Marion Barry, Jr., in support of H.R. 2717, which as you have already stated, would establish an independent jury system for the Superior Court of the District of Columbia.

Of course, the D.C. government supports this bill, essentially for two reasons: First, the bill would foster increased independence and self-determination with respect to local affairs of the D.C. government. This, in essence, would be in keeping with the spirit of the D.C. Self-Government and Governmental Reorganization Act of 1973.

Let me make a comment, Mr. Dymally, on the length of jury service. As you have correctly stated, length of jury service is an issue which must be addressed if we desire excellence in our jury system. While H.R. 2717 generally specifies that "In any 24-month period an individual shall not be summoned more than once to serve as a grand or petit juror * * *," the bill does not explicitly adopt the system endorsed by the board of judges, which you have also outlined this morning. We, of course, support that system, but if it is the desire of the committee that flexibility be left in the board of judges, we, of course, have no objection to that.

We believe that jury service would be viewed as potentially challenging and interesting, not as a burden characterized by empty hours and, hence, excruciating boredom, if the proposal of the board of judges were actually enacted into law. But as I said, we have no objections to leaving that flexibility to the board of judges.

We also endorse the proposed elimination of the exemption of broad groups of citizens from jury service. This will greatly expand the pool from which jurors are selected and will assure that jury panels will more nearly represent a fair cross-section of the D.C. community. Section 11-1909, which would permit deferral from jury service under certain circumstances, such as undue hardship and public necessity, we believe provides a reasonable means for addressing special cases where the inability to serve as a juror is obvious.

Now, Mr. Chairman, while we fully support the establishment of an independent jury system for the D.C. courts, for the reasons I have outlined and those that are in my statement, which I have

not mentioned this morning, we suggest three amendments to H.R. 2717.

The first concerns authority to prosecute cases under sections 11-1906(c)(2), 11-1907(b), 11-1913(b), and 11-1915. The bill does not explicitly assign responsibility for prosecution of criminal offenses. Because of the local nature of these offenses, and because the bill would create an independent jury system controlled by the local courts, the District believes that these offenses should be prosecuted by the District of Columbia. We therefore recommend that the bill specifically provide that these offenses shall be prosecuted by the corporation counsel for the District of Columbia.

Second, we believe that the bill should not leave the impression, perhaps inadvertently, that only the U.S. attorney could convene a grand jury. Section 11-1916 would authorize the U.S. attorney to certify to the chief judge of the superior court that an additional grand jury is required. We urge that this section be amended to permit the corporation counsel for the District of Columbia to also certify that an additional grand jury is required.

Third, and finally, section 11-1910, concerning challenging compliance with certain selection procedures, needs clarification in our view. The section is somewhat ambiguous in indicating who may challenge the jury selection. Because of this ambiguity, and because the U.S. attorney still prosecutes many offenses in the superior court, the United States should be included among those entities which may chalienge the jury selection process.

In conclusion, Mr. Chairman, we applaud the subcommittee in its support of H.R. 2717. Vesting responsibility for the D.C. jury system with the judges of the superior court, who are most intimately acquainted with the special needs of that court, will go far in assuring a fair, equitable, and effective judicial system for the citizens of the District of Columbia.

On behalf of the Mayor, thank you for this opportunity again to express our views. We will be happy to entertain any questions you may have, Mr. Chairman.

[The prepared statement of Inez Smith Reid follows:]

TESTIMONY OF INEZ SMITH REID,

CORPORATION COUNSEL, D.C.

BEFORE THE SUBCOMMITTEE ON JUDICIARY AND EDUCATION

OF THE HOUSE COMMITTEE ON THE DISTRICT OF COLUMBIA,

ON H.R. 2717, A BILL TO ESTABLISH AN INDEPENDENT

JURY SYSTEM FOR THE SUPERIOR COURT OF THE

DISTRICT OF COLUMBIA

JUNE 26, 1985

MR. CHAIRMAN, DISTINGUISHED MEMBERS OF THE SUBCOMMITTEE:

I AM PLEASED TO APPEAR BEFORE YOU THIS MORNING TO TESTIFY ON BEHALF OF MAYOR MARION BARRY, JR. IN SUPPORT OF H.R. 2717, WHICH WOULD ESTABLISH AN INDEPENDENT JURY SYSTEM FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA.

THE DISTRICT OF COLUMBIA GOVERNMENT SUPPORTS THIS BILL FOR TWO RELATED REASONS. FIRST, THE BILL WOULD FOSTER INCREASED INDEPENDENCE AND SELF DETERMINATION WITH RESPECT TO LOCAL AFFAIRS OF THE DISTRICT OF COLUMBIA GOVERNMENT. THIS IS IN KEEPING WITH THE SPIRIT OF THE DISTRICT OF COLUMBIA SELF-GOVERNMENT AND GOVERNMENTAL REORGANIZATION ACT OF 1973. INSTEAD OF A SINGLE JURY SELECTION SYSTEM FOR FEDERAL AND DISTRICT COURTS WHICH IS

CONTROLLED BY FEDERAL JUDICIAL OFFICERS, H.R. 2717 WOULD AUTHORIZE A DISTINCT JURY SYSTEM FOR THE DISTRICT WHICH IS CONTROLLED BY JUDGES OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA. THIS IS SIGNIFICANT BECAUSE THE NEEDS OF THE DISTRICT OF COLUMBIA'S JUDICIAL SYSTEM DIFFER FROM THOSE OF THE FEDERAL SYSTEM. SECOND, AND MOST IMPORTANT, THE BILL WOULD ENABLE THE SUPERIOR COURT TO EFFECTUATE A NUMBER OF JURY SYSTEM REFORMS WHICH PROMISE TO SIGNIFICANTLY ENHANCE THE QUALITY OF JUSTICE RENDERED BY THE DISTRICT'S COURT SYSTEM.

UNDER PRESENT LAW, THE FEDERAL SYSTEM IS INADEQUATE TO SERVICE THE DEMANDS OF THE SUPERIOR COURT'S HEAVIER JURY TRIAL CASELOAD AND USE OF LARGER JURIES. AUTONOMY OF THE SUPERIOR COURT JURY SELECTION PROCESS WOULD ENABLE THE JUDGES OF THAT COURT TO TAILOR A PLAN TO BEST SUIT ITS UNIQUE REQUIREMENTS.

LENGTH OF JURY SERVICE IS AN ISSUE WHICH MUST BE ADDRESSED IF WE DESIRE EXCELLENCE IN OUR JURY SYSTEM. H.R. 2717 GENERALLY SPECIFIES THAT: "IN ANY TWENTY-FOUR MONTH PERIOD AN INDIVIDUAL SHALL NOT BE SUMMONED MORE THAN ONCE TO SERVE AS A GRAND OR PETIT JUROR...." THUS, THE BILL DOES NOT EXPLICITLY ADOPT THE SYSTEM ENDORSED BY THE BOARD OF JUDGES FOR THE SUPERIOR COURT, THAT OF "ONE DAY/ONE TRIAL"; THAT IS, PETIT JURY SERVICE WOULD BE LIMITED TO ONE TRIAL OR ONE DAY OF SERVICE, WHICHEVER IS LONGER. BY REQUIRING A JUROR TO SERVE ONLY FOR A SINGLE TRIAL, OR TO BE DISMISSED AFTER ONE DAY OF SERVICE IF HE OR SHE IS NOT SELECTED

TO A JURY, THE SYSTEM WOULD ENCOURAGE PANELS MADE UP OF MORE ALERT, INTERESTED JURORS THAN UNDER THE PRESENT SYSTEM OF SERVICE FOR A SPECIFIED TERM. PROSPECTIVE JURORS WILL BE RELIEVED OF THE EXTRAORDINARY PRESSURE INHERENT IN BEING CALLED AWAY FROM THEIR JOBS OR OTHER DAY-TO-DAY RESPONSIBILITIES FOR AN EXTENDED PERIOD OF TIME. THEY WILL FURTHER BE RELIEVED OF THE FATIGUE OF WAITING FOR DAYS TO BE SELECTED TO A JURY. IN SHORT, JURY SERVICE WOULD BE VIEWED AS POTENTIALLY CHALLENGING AND INTERESTING, NOT AS A BURDEN CHARACTERIZED BY LONG, EMPTY HOURS AND HENCE EXCRUCIATING BOREDOM. THE NET EFFECT WILL BE THAT JURIES WILL BE COMPOSED OF INDIVIDUALS WHO ARE READY AND ABLE TO CONCENTRATE THEIR FULL ATTENTION TO THEIR CIVIC RESPONSIBILITY OF DECIDING THE FACTS OF A DISPUTE, AND A GREATER NUMBER OF CITIZENS WOULD BE AFFORDED THE OPPORTUNITY OF SERVING ON A JURY. THIS WILL UNDOUBTEDLY IMPROVE THE QUALITY OF SERVICE JURORS CAN RENDER.

WE ALSO ENDORSE THE PROPOSED ELIMINATION OF THE EXEMPTION OF BROAD GROUPS OF CITIZENS FROM JURY SERVICE. THIS WILL GREATLY EXPAND THE POOL FROM WHICH JURORS ARE SELECTED, AND WILL ASSURE THAT JURY PANELS WILL MORE NEARLY REPRESENT A FAIR CROSS-SECTION OF THE DISTRICT OF COLUMBIA COMMUNITY. SECTION 11-1909, WHICH WOULD PERMIT DEFERRAL FROM JURY SERVICE UNDER CERTAIN CIRCUMSTANCES SUCH AS UNDUE HARDSHIP AND PUBLIC NECESSITY, PROVIDES A REASONABLE MEANS FOR ADDRESSING SPECIAL CASES WHERE THE INABILITY TO SERVE AS A JUROR IS OBVIOUS.

WHILE WE FULLY SUPPORT THE ESTABLISHMENT OF AN INDEPENDENT JURY SYSTEM FOR THE DISTRICT OF COLUMBIA COURTS, WE SUGGEST THREE AMENDMENTS TO H.R. 2717.

THE FIRST CONCERNS AUTHORITY TO PROSECUTE CASES UNDER SECTIONS 11-1906(c)(2), 11-1907(b), 11-1913(b), AND 11-1915. THE BILL DOES NOT EXPLICITLY ASSIGN RESPONSIBILITY FOR PROSECUTION OF CRIMINAL OFFENSES. BECAUSE OF THE LOCAL NATURE OF THESE OFFENSES, AND BECAUSE THE BILL WOULD CREATE AN INDEPENDENT JURY SYSTEM CONTROLLED BY THE LOCAL COURTS, THE DISTRICT BELIEVES THAT THESE OFFENSES SHOULD BE PROSECUTED BY THE DISTRICT OF COLUMBIA. WE THEREFORE RECOMMEND THAT THE BILL SPECIFICALLY PROVIDE THAT THESE OFFENSES SHALL BE PROSECUTED BY THE CORPORATION COUNSEL FOR THE DISTRICT OF COLUMBIA.

SECOND, WE BELIEVE THAT THE BILL SHOULD NOT LEAVE THE IMPRESSION, PERHAPS INADVERTENTLY, THAT ONLY THE UNITED STATES ATTORNEY COULD CONVENE A GRAND JURY. SECTION 11-1916 WOULD AUTHORIZE THE UNITED STATES ATTORNEY TO CERTIFY TO THE CHIEF JUDGE OF THE SUPERIOR COURT THAT "AN ADDITIONAL GRAND JURY IS REQUIRED." WE URGE THAT THIS SECTION BE AMENDED TO PERMIT THE CORPORATION COUNSEL FOR THE DISTRICT OF COLUMBIA TO ALSO CERTIFY THAT AN ADDITIONAL GRAND JURY IS REQUIRED.

THIRD, SECTION 11-1910 CONCERNING "CHALLENGING COMPLIANCE WITH SELECTION PROCEDURES" NEEDS CLARIFICATION, IN OUR VIEW. THE SECTION IS SOMEWHAT AMBIGUOUS IN INDICATING WHO MAY CHALLENGE THE JURY SELECTION: SUBSECTION (a) REFERS TO "A PARTY", WHILE SUBSECTION (c) SPECIFICALLY LISTS "A PERSON ACCUSED OF A CRIME, THE DISTRICT OF COLUMBIA, OR A PARTY IN A CIVIL CASE." BECAUSE THE UNITED STATES ATTORNEY STILL PROSECUTES MANY OFFENSES IN THE SUPERIOR COURT, THE "UNITED STATES" SHOULD BE INCLUDED AMONG THOSE ENTITIES WHICH MAY CHALLENGE THE JURY SELECTION PROCESS.

IN CONCLUSION, WE APPLAUD THE SUBCOMMITTEE IN ITS SUPPORT OF H.R. 2717. VESTING RESPONSIBILITY FOR THE DISTRICT OF COLUMBIA JURY SYSTEM WITH THE JUDGES OF THE SUPERIOR COURT, WHO ARE MOST INTIMATELY ACQUAINTED WITH THE SPECIAL NEEDS OF THAT COURT, WILL GO FAR IN ASSURING A FAIR, EQUITABLE AND EFFECTIVE JUDICIAL SYSTEM FOR THE CITIZENS OF THE DISTRICT OF COLUMBIA.

ON BEHALF OF THE MAYOR, THANK YOU FOR THIS OPPORTUNITY TO EXPRESS OUR VIEWS.

INEZ SMITH REID
CORPORATION COUNSEL, D.C.

Mr. DYMALLY. Counsel, before we entertain any questions, let me call upon the gentleman from Virginia, Mr. Bliley, for a statement.

Mr. BLILEY. Thank you, Mr. Chairman. I will not take much time for an opening statement today, because I believe that we are all agreed on the need for this legislation and what it should look like.

I would like to mention that the superior court and other concerned groups have asked for this legislation and pointed to a need for a separate formal jury selection system for the District of Columbia. This need has become more acute since the Congress approved seven new superior court judges for the District. I agree that there is a need for legislation, and I believe that the result of this meeting today, and a full committee meeting in the near future, will be to resolve the jury problem effectively and responsibly.

Finally, Mr. Chairman, I would like to take a moment to say that this bill is the result of friendly, bipartisan discussion. This subcommittee has usually dealt with issues in an open and friendly manner, and I am quite pleased that this tradition is continuing. There are some other important issues that we should address in the 99th Congress and I look forward to working with the Members and the staff on both sides in the spirit of cooperation and problem-solving.

With that said, Mr. Chairman, I yield back the balance of my time.

Mr. DYMALLY. I thank the gentleman for his conciliatory remarks and his past and present support of legislation coming out of this committee.

Counsel, on page 4, in your first recommendation dealing with section 11-1906, I am informed by committee counsel that a separate bill is being prepared to deal with this matter. So my first question to you is, what are your views regarding residency requirements for individuals who are summoned to serve on local juries?

Mrs. REID. As you know, Mr. Chairman, section 11-1906 of the bill requires jurors to be D.C. residents. This is in keeping with the law of the District of Columbia regarding residency. However, that law also makes it clear that an individual does not have to be a resident at the moment of appointment but has 6 months to become a resident. The residency requirement then is in keeping with the D.C. law.

Mr. DYMALLY. Let's talk a little bit about fees. Who do you think should determine the fees, the city council, the court?

Mrs. REID. As the legislation indicates, the council, I believe, has the prerogative of preparing those juror fees in section 11-1912. We have absolutely no objection to the council establishing those fees.

The provision also specifies that those fees shall not exceed the amount of fees awarded to jurors in the Federal system. We believe that kind of consistency is advantageous in terms of this bill. However, we have no strong objections if this committee believes that the board of judges rather than the council should establish the fees. Perhaps Mrs. Rolark will have more to say on that subject.

Mr. DYMALLY. The Chair recognizes the gentleman from Virginia.

Mr. BLILEY. Mr. Chairman, thank you very much.

The only question I have is, I hope there will not be many exemptions of people to serve on a jury. In the past, and I know in my own locality and in my State, there have been many groups who have been able, through political pressure, to get their groups, as a class, exempted from jury service. I think that is wrong. I would hope that in preparing the enabling legislation as we go down the road, that there will be few or no exemptions. I think it is a duty for all of us and one that we should have to exercise.

Mrs. REID. I must say, sir, that I share your views. Section 11–1908 of the legislation as drafted contains a general prohibition on exclusion. I believe that is wise. At the same time, there are some very cogent guidelines in terms of when an individual may be excluded from service. For example, partiality, that the service would be disruptive, the normal preemptory challenges, and for cause—also when there is a threat to the secrecy of the proceeding. So generally there is a prohibition on exclusion and I share your concerns along those lines.

I deeply believe that the more citizens who become involved in the jury process, the wiser our judicial system will be. I believe that it is important to expect citizens to serve in a capacity to improve the quality of the judicial system.

Mr. DYMALLY. Mrs. Reid, we thank you for your testimony. We, of course, will be in touch with you as we prepare further amendments and as the bill moves along. We appreciate the fact that the gentleman from Virginia sees this as a very bipartisan, collective effort and we will be working with everyone to bring out the best bill for the District.

We thank you very much for your testimony.

Mrs. REID. Thank you again, Mr. Chairman.

Mr. DYMALLY. Is Mrs. Rolark here? We try to first accommodate members of the council because they have to get back to their public duties. [No response.]

All, right, Mr. Polansky. Will you identify yourself for the record, please.

STATEMENT OF LARRY P. POLANSKY, ESQ., EXECUTIVE OFFICER, DISTRICT OF COLUMBIA COURTS

Mr. POLANSKY. Thank you. My name is Larry Polansky. I am the executive officer of the D.C. courts. Good morning, Congressman Dymally, Congressman Bliley.

First of all I would like to bring you Chief Judge Moultrie's regrets for not personally being able to be here. He is in the middle of a trial. I personally thank you and thank him for the opportunity to testify on his behalf.

First and foremost, let me say that perhaps I shouldn't say anything. After hearing the bipartisan support for the bill, I might best stay mute. But I am not as good a lawyer as I probably should be.

First, let me say that the D.C. courts, its joint committee on judicial administration, the superior court board of judges, as well as Chief Judge Aubrey Robinson of the U.S. District Court, all support H.R. 2717. I don't know if you could talk about, in terms of courts, are courts bipartisan, or can they be. Both of the courts of the Dis-

trict, which would be giving up the responsibility and those which would be receiving it, support this bill very strongly.

It is a bill which would provide the flexibility in administration and operation that a busy Superior Court of the District of Columbia needs very badly and which will provide the ability to implement the one-trial/1-day juror system that the superior court board of judges voted to adopt after a very successful experiment last year. We are looking forward to it and we think it would be a great improvement.

Mr. Temple asked me to give you a bit of the history, and I will.

When the superior court was formed by the District of Columbia Court Reform and Criminal Procedure Act of 1970, its jurisdiction over major criminal and civil cases was very slowly transferred as the judicial complement was increased. It was transferred from the U.S. District Court to this court. This probably accounts for why the shared system was and is in place, because D.C. involvement was from a municipal court to a general sessions court of limited jurisdiction, to finally this full jurisdiction court that it is today.

It is, however, governed right now, in terms of its jury system, by the U.S. District Court master jury plan and by its commissioner system. Today's court, however, is far different than the one that was replaced by the act of 1970. This court last year held 1,500 jury trials, some 1,300 criminal trials, and almost 200 civil jury trials. Those are jury trials. We held many, many more trials than that. This is very likely some five times as many as are held in the U.S. District Court. On average, we have 20 jury trials a day in progress in the courthouse. That is without a one-trial/1-day process.

With today's system, I have gone back and calculated the figures for the calls for the first 8 months of this year. We have initiated the calls through August already. The U.S. District Court has calls for 3,160 jurors. We have called for 16,000 jurors for that 8-month period. The volume, of course, is all in the Superior Court of the District of Columbia. It is a factor of 5 or more.

Our daily needs require a flexibility much different from that of the U.S. Court. During this 8-month period, our monthly calls have varied between 1,400 and 2,500 jurors a month, and we must be flexible and meet the demands, vacations, et cetera. The District court, however, is a very continual pattern. They have called between 370 and 400 jurors a month every month during the same period that we looked at.

After the seven additional judges were authorized and, months later, after authorization was confirmed, it took almost another 6 months after confirmation and some small amount of superior court staff support to the U.S. District Court in order for our increased juror needs to begin to be accommodated fully. The system that we work under today is just not geared to be able to do what needs to be done.

We have had some other things happen because of our size and our increased needs. For example, the jury wheel had to be restocked earlier than was originally planned because of our additional juror needs. The system as it is geared today is just not up to doing those kinds of things.

I must say, in response partially, Congressman Bliley, to something you said, that not entirely at our urging the District court

this year eliminated many of its exemptions which we think was very good. We agree with what was said by you, by Mr. Dymally, by Mrs. Reid, that if possible all exemptions should be eliminated. Only for cause should someone be excused, and that would only be deferred from service rather than totally excused, unless they were disabled. I must say that the elimination of many of those exemtions has resulted in heavier than expected yield from the summonses that have gone out.

Another most important reason, of course, to go into this system, is to accommodate the one-trial/1-day system which will call for an increase again in a number of five or more in the number of jurors summoned. So that instead of 16,000 today, we would probably have summoned something like 80,000 by the August date. The system, as it exists today, is just not prepared to handle that.

After stressing support for the bill, let me please address some changes, primarily technical, which we would suggest. I understand that several amendments have been considered, but not knowing precisely what those amendments are, you will have to excuse me if I ask for things that you have already decided upon.

First, in the bill as I read it, it calls for implementation no sooner than 1 year from the effective date of the bill. We would really desire to be able to implement this as soon as we were physically able to do it. I think 1 year is far longer than it will take us. I think 180 days is a reasonable timeframe. If it were possible to get the appropriate language, I would really want it to say that we should implement no less than 180 days after the effective date of the bill.

Mr. DYMALLY. Excuse me; 3 months, 6 months?

Mr. POLANSKY. Somewhere between 3 and 6 months is probably what it will take to get the master plan approved by the board of judges and to get the computer——

Mr. DYMALLY. OK. There will be an amendment to that effect.

Mr. POLANSKY. Great.

As I read the legislation, it provides for the use of additional lists after careful analysis of their usefulness. We support very strongly that position. We do not support strongly the statutory inclusion of the licensed drivers list. Today it is one that we gladly use, but we're not certain in the future that it will be the best possible use to have included as a statutory requirement. There are some problems with that list, incidentally, today.

Mr. DYMALLY. Mr. Polansky, that will be eliminated.

Mr. POLANSKY. I'm on a roll. I haven't lost yet.

Mr. DYMALLY. Don't quit, though.

Mr. POLANSKY. We would suggest a minimum residency period of time. I must say that I'm not certain what I would believe would be the best one. The Federal system requires a 1-year residency. I must admit to you publicly that a judge is only required to live in the District for 90 days before being eligible to be a judge of our court. So I have some qualms about making it a very long period of time.

But there ought to be some residency period. The entire idea of a jury is to be judged by a jury of your peers. I would think a very short-term resident of the District would not represent a jury of your peers.

Mr. DYMALLY. What is your approximate time?

Mr. POLANSKY. I would like 6 months, personally.

Ability to certify a rehabilitated criminal is part of the proposed bill. I agree. The only problem I see is if the intent of the bill is to require a judicial hearing for each individual that applies to be certified, because today I know of no system that provides that certification of the bringing back of their civil rights. If this is really a task that could be delegated to, for example, the clerk of the court to take the application, review the application, and then respond quickly without a full open hearing, I would certainly support that. We need something to identify what those words mean.

I understand that you all have addressed in your discussions the fact that some of the criminal sanctions included fines which were in excess of the amount that would then provide that the offense called for the demand of a jury trial. We would hope that in most cases the fine could be reduced and perhaps the alternative days of imprisonment or combined days of imprisonment increase, but staying within the $300 fine and 90 days beyond which a jury trial is demandable by the offender.

Now, there are some offenses——

Mr. DYMALLY. For the record, it is not the intent to have this judicial review.

Mr. POLANSKY. Oh; that's great.

In section 1911 it indicates that a juror may not be summoned more than once in a 24-month period. I think it is a technical language change that we would ask. Required to serve would be more appropriate because under the current system we summon and occasionally defer their service. If this were taken literally, we would have to defer their service for 24 months.

In terms of fees, I make only the comment that the board of judges' recommendation is that the fees be set by the board of judges of the superior court and not to exceed an amount set by—I don't believe the board of judges would object to the maximum amount being set by the council or the Fed.

Finally, I want to say that we believe it is necessary, and as I understand what has been said here today, so does everyone else, and I will rest and be glad to answer any questions you might have.

[The prepared statement of Larry Polansky follows:]

Testimony of Larry P. Polansky, Esquire
Executive Officer, District of Columbia Courts
on H.R. 2717 - District of Columbia Jury System Act
Before the Judiciary and Education Subcommittee
of the
House Committee on the District of Columbia

June 26, 1985

The District of Columbia Courts, through the Joint Committee on Judicial Administration and with the support of the Board of Judges of the Superior Court, have supported for several years the concept of a separate jury system for the Superior Court of the District of Columbia. In the fall of 1983 and the spring of 1984, the Superior Court undertook a test program of the one trial/one day concept and was favorably impressed with the feasibility and desirability of this approach.

During the conduct of this experiment, however, it became obvious that such a program requires much more flexibility than the current shared jury system provides. Even absent a one trial/one day program, the every day demands for jurors and the daily administrative and operational requirements of a major metropolitan court system with an extremely heavy caseload, dictate autonomy and flexibility in the administration and operation of the jury system.

This study and our experimentation has led to the drafting of a formal legislative proposal by the Joint Committee on Judicial Administration which, although in spirit and concept, is very much similar to H.R. 2717, differs in some individual respects.

Let me stress that the District of Columbia Courts support the concept of an independent jury system as embodied in H.R. 2717. The few specific features of the bill which we would like to address with comments are:

1. The effective date of H.R. 2717 is one year after enactment of the bill. The Superior Court has accomplished a fairly comprehensive review of our jury operations and completed a planning effort in conjunction with the one trial/one day program. We are confident that the development of a "master jury plan" and implementation of the legislation can be accomplished in a much shorter time frame than the one year, possibly in a period of 120 to 180 days, and, since we are anxious to move as quickly as possible, would suggest language to permit the initiation of the program earlier if it is possible.

2. Section 11-1905 of H.R. 2717 mandates that the master juror list include the list of licensed drivers and a list of individuals who voluntarily submit their names to the Court for inclusion on the master list in addition to the list of District of Columbia voters. We would suggest that the core of the master jury list be the voter registration list or the list of actual voters of the District of Columbia, but that any other lists be provided for in the "master jury plan". The Motor Vehicle driver list, although extremely useful,

includes many non-residents and we have already experienced some difficulty with the currency of the list. It would be desirable to have flexibility in adding other source lists which, of course, should be done only after careful study and analysis. If, however, one or more of these other lists proves more valuable, useful and accurate than the "driver" list, we would be required by the statute to continue to include the "driver" list.

3. The residency requirement in Section 11-1906(b)(1)(A) of H.R. 2717 does not provide any minimum residency period. We would suggest the Committee's consideration of a one-year residency requirement such as is currently required for federal jury service.

4. Existing law provides for disqualification of a prospective juror who has a charge pending against him/her for the commission of, or has been convicted in a state or federal court of record of a crime punishable by imprisonment for more than one year and his/her civil rights have not been restored. The interpretation and application of the phrase "restoration of civil rights" has been troublesome to work with. H.R. 2717 provides for convicted felons to qualify for jury service after one year of completion of their term of incarceration, probation or parole and suggests a certification procedure be provided in the jury system plan. We would be supportive of such a procedure if it is intended that it be a ministerial function to be delegated, for example, to the Clerk of Court. A formal review by the Court for each individual coming under this section would be burdensome and unworkable.

5. H.R. 2717 contains several provisions for criminal sanctions for failure to respond for jury service, fraud, misrepresentation, employment protection, etc. We would suggest that, where appropriate, the sanctions not exceed a $300.00 fine or 90 days imprisonment, since any sanction above $300.00 or 90 days would make the offense a jury demandable offense. This, of course, would add to the already heavy workload of the Court.

We would suggest the following table:

		H.R. 2717 Provides	We Suggest
Section 11-1906(c)(2)	Failure to Appear for Qualification	$500 Fine or 7 Days Imprisonment	$300 Fine or 7 Days Imprisonment
Section 11-1906(d)	Misrepresentation of Material Fact	$1,000 Fine or 30 Days Imprisonment	$300 Fine or 90 Days Imprisonment
Section 11-1907(b)	Failure to Appear for Jury Duty	$1,000 Fine or 7 Days Imprisonment	$300.00 Fine or 7 Days Imprisonment
Section 11-1913(b)	Employer Interfering With Juror Service		
	First Offense	$5,000 Fine or 180 Days Imprisonment	$300.00 Fine or 30 Days Imprisonment
	Second Offense	$5,000 Fine or 180 Days Imprisonment	$5,000 Fine or 180 Days Imprisonment
Section 11-1915	Jury Tampering	$10,000 Fine or 2 Years Imprisonment	$10,000 Fine or 2 Years Imprisonment

6. H.R. 2717 provides in Section 11-1911 that a juror may not be summoned more than once in any twenty-four month period. This is modified by the phrase ". . . . except as may be necessary by reason of the insufficiency of the master jury list or as ordered by the Court". This phrase is extremely important since we do believe there would not be a sufficient pool of jurors for the one trial/one day program with the twenty-four month restriction and it might well be safer to use a twelve-month period. We would further suggest that the phrase "shall not be summoned more than once" be amended to read "shall not be required to serve more than once". Many individuals who are initially summoned receive a deferral from service because of some temporary condition. The current phrasing would prohibit their being resummoned at a later date within the stated period.

7. Section 11-1912 of H.R. 2717 provides that fees and expenses for jurors are to be established by the District of Columbia Council, not to exceed federal rates. The Court's original proposal favored the establishment of fees in the master jury plan because of the flexibility that such a provision would provide.

The District of Columbia Courts believe in the necessity for an independent jury system for the Superior Court of the District of Columbia and fully support the concept. This bill, with the minor modifications suggested above would provide the administrative direction and operational flexibility necessary to accomplish this end.

Mr. DYMALLY. Thank you.

The Chair now recognizes the gentleman from Virginia, Mr. Bliley.

Mr. BLILEY. Mr. Polansky, would one-trial/1-day juror service be a cost savings to the court?

Mr. POLANSKY. The answer, and the honest answer, is that it cannot possibly be a cost saving. The number of juror days will probably be very much like the number of juror days used today, but different people will be there. Many more people will be there.

From an administrative standpoint, since we will be calling between five and eight times as many people in, we will be mailing questionnaires and summonses to five to eight times as many people. We anticipate that might cost some $40,000 in postage.

I must tell you, however, that we have looked very carefully at changing the system so that instead of sending a questionnaire, which is then sent back for a qualifying process, which then results in a summons, three mailings, we would think about a one-way questionnaire and summons which would be returned by the individual when they came for jury service. This would save two of the three postages and would minimize the additional postage cost. But I cannot tell you that it is going to save money.

The second part is that we will have to process on a daily basis the numbers of people that we processed on a biweekly basis. It's obvious we will need a small increase in staff to be able to handle that, perhaps two staff people which on average would be perhaps $40,000 a year. Our estimate is that it may cost us as much as $100,000 a year, but we would say to you very frankly that we think it is well worth it.

Mr. BLILEY. What is the average length of juror service in the D.C. courts?

Mr. POLANSKY. Well, today the average is 2 full weeks with a number of people being held over for a trial that they get involved in at the end of their 2-week period and it continues to run. So the average service is actually 2 weeks.

In the experiment that we ran, we ran 8 single-day, one-trial/1-day experiments. The average person in those experiments served 1½ days. The average person who got on to a trial served about 4 days.

Mr. BLILEY. You have recommended that the master jury plan be developed within 120 to 180 days after enactment. Can you give your reasons for wanting it done in less than 1 year?

Mr. POLANSKY. Oh, yes; the major reason for this legislation is to get the one-trial/1-day. We cannot get there without a revision of the master plan and having our own system.

We believe that most of the parts of the master plan are ready to go. We also are sort of lucky. We have been working on a new automated system to support the daily, what is now a weekly call of jurors on a biweekly term. Well, that computer system was written to accommodate not only a biweekly service but also to accommodate a one trial/1 day, so our computer system is ready. All that really needs to be done is to have the board of judges adopt a master plan with a very good base from the good parts of the Federal master plan and the changes required for us.

We don't see any real need for great delay time. Certainly we will take time to write it and to bring it before the board of judges,

have them review it and approve it, but we don't think it will take anywhere near 1 year to do that, sir.

Mr. BLILEY. Do you think you could develop it in 45 days?

Mr. POLANSKY. I think I could develop it. I am more worried about the process—it is not quite as lengthy as the congressional process, but going through the board of judges does take some time.

Mr. BLILEY. I'm glad you know it's not as long as the congressional process. You would be in deep trouble.

Thank you, Mr. Chairman.

Mr. DYMALLY. Thank you, my friend.

Mr. Polansky, we have a time problem and a conflict with another committee. Therefore, I would like to have the privilege of forwarding you four questions for your response in writing.

Mr. POLANSKY. We would be delighted to respond.

Mr. DYMALLY. Thank you very much.

Mr. POLANSKY. Thank you for the opportunity.

[The questions and answers follow:]

June 28, 1985

Answers to District of Columbia Committee Questions

Regarding Bill H.R. 2717

Question 1: Has the Court agreed upon a structure to develop and implement a written jury system plan?

Answer 1: Yes. The Executive Office will prepare a first draft of a complete jury system plan. This plan will be reviewed first by a jury committee of the Superior Court Board of Judges and then by the complete Board of Judges. Upon a final positive vote by the Superior Court Board of Judges, the plan would be ready to be placed in operation.

Question 2: The Court has adopted a one day/one trial plan and is prepared to implement it under this new system. For the record, could you tell us how this plan would work and how much you think it will cost?

Answer 2: As indicated in our testimony, the Court ran a one trial/one day experimental program over eight (8) separate days between October of 1983 and March of 1984. As a result of that experience, it is quite likely that the following procedure will be followed:

A. An adequate number of qualified jurors will be needed each working day (250-300 persons).

Based on the experience with "yields" (the percentage of persons who show-up and can serve), we will probably need to summon from 500-600 persons each working day.

Each person summoned will receive basic juror indoctrination data in the mail (location, date and time to arrive, available public transportation, etc.).

On arrival, each will: (a) be "Checked In" by staff; (b) listen to a short orientation speech by our jury officer; and (c) view a 10-15 minute video tape explaining, generally, the legal (jury) system of the District of Columbia.

(Jurors will only be excused for medical reasons or extreme hardship conditions and only after a detailed review by the Clerk of the Court.)

Jurors will be assigned to panels and as courtrooms request jury panels for voir dire, jurors will be sent to courtrooms where a jury of 12 (usually plus two alternates) will be selected from panels of from 26 to 52 persons (depending upon the number of peremptory challenges permitted by law for the specific case).

Those persons selected to serve on the jury will serve until the completion of that trial which could last as little as 1/2 day or as long as several weeks, but, on average will take three days. Their juror service obligation will then have been satisfied.

Those not selected to serve on the jury will return to the jury lounge where they will again be assigned to panels and called to courtrooms, during the remainder of the day, for voir dire. If not selected by the end of the day, they will have completed their jury service obligation.

B. We estimate an annual additional cost of $90,000 - $100,000.

This would result from two factors:

1. Since our questionnaire and summons mailings would increase by a factor of 5 or more, our postage costs would increase accordingly. This could cost as much as $45,000 per year. However, we plan to explore the possibility of "one step processing" which could reduce our total mailing costs by 2/3. Presently, we mail a questionnaire with a return envelope followed by a summons when the juror is selected from the qualified group for service. This would represent a $.44 postage cost for qualification and an added $.22 postage cost for jurors called to serve. A "one step" questionnaire and summons would limit that cost to $.22 per person. (Please note that under the federal jury system, there was no postage cost because of the federal franking privilege.)

2. The other cost would be the added staff necessary to process the increased numbers of jurors and questionnaires to be handled each year (an anticipated level some 5 times greater than at present). We have carefully estimated that we could handle this increase with three additional personnel in the jury office. This would cost approximately $60,000 per year.

The use of bulk mail (if feasible) and improved computer support could reduce these costs somewhat.

Question 3: What are your opinions about a six-month residency requirement in order to serve as jurors?

Answer 3: In our submitted testimony, we indicated support for a residency requirement comparable to the one-year period provided for in the federal jury system. The object of the "reasonable" residency period is to assure that the jury will truly be a jury of one's peers.

Question 4: What is the status of the present jury system and how efficient is it?

Answer 4: The present jury system is cumbersome but not ineffective. It is, however, incapable of operating well under the pressure of the substantial numbers of jurors required by the Superior Court for the normal two-week jury system process. In our opinion, it would be impossible for the present system to support a one trial/one day system wherein the number of jurors called would be some five to ten times as large as the number currently called.

Mr. DYMALLY. Mr. Horsky.

STATEMENT OF CHARLES A. HORSKY, CHAIRMAN, COUNCIL FOR COURT EXCELLENCE, ACCOMPANIED BY H. BEECHER HICKS

Mr. HORSKY. Good morning, Mr. Chairman. My name is Charles Horsky. I have with me Dr. Hicks, who is a member of the board of the Council for Court Excellence, of which I am chairman. The council is a local, civic organization of lawyers, businessmen, civic leaders, judges, business people, and community people, and we have been very much interested in this bill for some time.

In light of what has been said by Mr. Polansky and others here this morning, I don't think it's necessary for me to do any more than endorse the bill. You have a statement that I have prepared. I am perfectly willing to stand on that statement.

Mr. DYMALLY. Without objection, it will be entered in the record.

[The prepared statement of Charles A. Horsky follows:]

The Council for Court Excellence
Suite 1115
1025 Vermont Avenue, N.W.
Washington, D.C. 20005

Samuel F. Harahan
Executive Director
(202) 783-7736

STATEMENTS OF CHARLES A. HORSKY AND H. BEECHER HICKS
ON H.R. 2717, BEFORE THE
SUBCOMMITTEE ON JUDICIARY AND EDUCATION OF THE
COMMITTEE ON THE DISTRICT OF COLUMBIA

June 26, 1985

Mr. Chairman and Members of the Committee:

It is a privilege to appear before you today to support H.R. 2717. I am Charles A. Horsky, Chairman of the Council for Court Excellence and senior counsel of the law firm of Covington & Burling, of this city.

The Council is a local civic organization, which brings together individuals from the legal community, business and civic groups, government and the courts to strengthen the administration of justice in the District of Columbia. The Council has taken particular interest in the Bill now before you, and we have worked closely with the local and federal courts, the D. C. Bar, and the Greater Washington Board of Trade to develop a jury service proposal which we all support and which serves the interests of all segments of our community.

Apart from the general desirability of giving the courts of the District of Columbia authority to establish their own jury system, the Council is very much interested in having the Congress authorize the Superior Court to adopt the one-

Executive Committee
Charles A. Horsky, Esq., President, Willie L. Leftwich, Esq., Treasurer, Julie N. Gilbert, Esq., Secretary, Honorable James A. Belson, Edward J. Burger, Jr., M.D., Ellen W. Eager, Rodney F. Page, Esq., Honorable Carlisle E. Pratt, Michael F. Ryan, Stephen A. Trimble, Esq., Howard P. Willens, Esq.

trial/one-day jury duty concept. This one objective alone will go a long way toward improving the present inadequate citizen involvement in, and poor public understanding of, the courts of the District of Columbia.

I would like now, with your permission, to introduce Dr. H. Beecher Hicks, Jr., a Council Board member and participant in our Jury Service Committee, who will comment in greater detail on the legislation under consideration.

Rev. H. Beecher Hicks' testimony:

Good morning. I am H. Beecher Hicks, Jr., Pastor of the Metropolitan Baptist Church, and a citizen member of the Council for Court Excellence Board of Directors. We strongly support H.R. 2717. The Bill now before you represents an important opportunity to bring about full local control of the District of Columbia jury service system, and to involve a great many more District of Columbia citizens in our judicial system each year through permitting the reduction of the petit jury term to a single trial or a single day, whichever is longer.

Just as voting is both a right and a civic responsibility available to all citizens, so must all citizens be given both the opportunity and the encouragement to serve as jurors in the District of Columbia Superior Court. By abolishing current provisions which allow many people to be excused from jury service, a one-trial or one-day jury

system will greatly increase citizen participation in our courts. The proposed legislation will allow the District of Columbia Superior Court to follow the approach of many other courts across the nation -- in Anchorage, Detroit, Baltimore and nearby Montgomery County, Maryland, to name a few -- which now operate one-trial or one-day jury service programs.

I might also note that the Council for Court Excellence supports a shortened term of jury service for the United States District Court for the District of Columbia, so that more D. C. residents will have the opportunity to serve as jurors at both the local and federal court level.

There are two final points I would like to make about the substance of H.R. 2717. First, we support the proposal that juror fees be set legislatively by the City Council, and not administratively by the court. Second, we notice that the Bill, as written, would not go into effect until one year after it is signed by the President. As Chief Judge Moultrie of the District of Columbia Superior Court offered in the Court's draft jury proposal to this Committee, we also support having the Bill effective immediately upon signing, and that the statute further require that the jury plan be implemented within 120 days thereafter.

Thank you.

We would be happy to answer any questions you may have.

Addition to C.A. Horsky Testimony Re. HR 2717 6/26/85

Mr. Chairman, H.R. 2717 must also be seen in the overall historical context of increasing independence and autonomy for the local courts of the District of Columbia. Prior to 1971 the D.C. Court of General Sessions had jrisdiction over minor criminal cases and over civil matters where the amount in controversy was under $10,000. Jury duty in both the U.S. District Court and in the Court of General Sessions was for one month. Authority over jury system used in the D.C. General Sessions Court vested in the federal District Court.

With Congressional passage of the 1970 D.C. Court Reform Act the Superior Court was created, and over time it assumed jurisdiction over all local civil and criminal cases. Jury duty remained four weeks for our citizens in the Superior Court, however, until the mid-1970s when it was reduced to a two week term of service. Congress did not transfer authority for the jury system to the Superior Court, and today as was true twenty years ago the basic legal authority for our local judicial system's jury plan rests with the federal courts.

We are most appreciative of the initiative of this Committee to continue the appropriate transfer of all local judicial functions to the District of Columbia. Adoption of this Bill will enable the Superior Court to devise and operate an independent jury system, and to promptly implement the one trial-one day petit jury reform.

Mr. Chairman I have only one closing comment before turning the floor over to Dr. Hicks. We learned only very recently that this Committee is considering an amendment which would require that the jury plan developed by the Superior Court Board of Judges be sent to the Congress for a forty five calendar day review period. While we would favor the Superior Court issuing the jury plan in a proposed form to allow appropriate public comment from the Bar, the busines and civic community, we see no need or justification for any formal requirement of Congressional review of such a purely local administrative matter.

However, if the Committee does decide to include such a provision we urge that you restrict your oversight to the initial jury plan, and not subject the Court to a requirement of having every subsequent amendment come before Congress before it can become effective.

Mr. HORSKY. I would like to ask Dr. Hicks if he would like to say a word.

Mr. HICKS. I would simply join Mr. Horsky in giving my support to this bill and asking that it simply be entered into the record.

Mr. DYMALLY. Just for the record, would you give us your name and position?

Mr. HICKS. My name is H. Beecher Hicks, Jr., the pastor of the Metropolitan Baptist Church of Washington, DC.

Mr. DYMALLY. Thank you very much, indeed.

Thank you very much for coming, and thanks to all the witnesses.

The hearing is adjourned.

[Whereupon, at 9:38 a.m., the subcommittee proceeded to other business.]

[The following prepared statement by John A. Turner, Jr., president of the Washington Bar Association, was subsequently received for the record:]

THE WASHINGTON BAR ASSOCIATION

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TESTIMONY OF JOHN A. TURNER, JR

PRESIDENT

WASHINGTON BAR ASSOCIATION

ON

H.R. 2717

On behalf of the Washington Bar Association, please permit me to express our appreciation to you for inviting us to comment on H.R. 2717.

The Washington Bar Association (WBA) is the oldest and largest minority bar association in the District of Columbia. Founded in 1925, our membership consists of attorneys, public officials, and judges. The WBA is an affiliate of the National Bar Association.

Upon review of H.R. 2717, the WBA wishes to express its support for this bill.

An independent jury system for the Superior Court of the District of Columbia is an appropriate means to further implement the "one trial-one day" program which the Court initiated not long ago. Any system that seeks to make efficient use of potential jurors and which concurrently reduces the total number of days that active jury service is actually required deserves strong support and commendation.

While the WBA supports the bill, however, there are certain provisions of H.R. 2717 that may require additional attention and study by your committee:

60-206 0 - 86 - 3

A. Certain terms should be defined to eliminate unnecessary litigation that may arise from this legislation. They include:

Resident (11-1906 b 1 A)
Open Court (11-1098 b 4) Does this include bench conferences?
Misdemeanor charge (11-1906 b 2 B) Surely traffic offenses are not included.

B Liscenced drivers. Since this category can include non citizens of this country and some non residents, care must be taken when addressing this category.

C. Juror fees. Consideration should be given to the topic of including the Board of Judges in the process of establishing jury fees.

D Preservation of Records. Before, during and after jury service, care should be taken that persons seeking juror lists are not seeking to compile a mailing list or some such document. Some degree of confidentiality should exist.

This concludes our testimony.

MARKUP OF H.R. 2717—TO ESTABLISH AN INDEPENDENT JURY SYSTEM FOR THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA

WEDNESDAY, JUNE 26, 1985

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON JUDICIARY AND EDUCATION,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, DC.

The subcommittee met, pursuant to other business, at 9:38 a.m., in room 1310, Longworth House Office Building, Hon. Mervyn M. Dymally (chairman of the subcommittee) presiding.

Present: Representatives Dymally and Bliley.

Also present: Edward C. Sylvester, Jr., staff director; Donald M. Temple, senior staff counsel; Ronald Wood, intern; John Gnorski, minority staff director; and Ronald Hamm, minority staff assistant.

Mr. DYMALLY. The subcommittee is reconvened to mark up H.R. 2717. There is a consensus among subcommittee members present in support of Mr. Bliley's proposed amendment and my proposed amendments, and the counsel will read these amendments for the record.

Mr. HAMM. Amendment No. 1, page 12, line 9, strike out "grand" and insert in lieu thereof "notwithstanding section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act, grand * * *"

Mr. DYMALLY. Any objections? If not, it is so ordered.

Mr. HAMM. Amendment No. 2 on our list, page 4, after line 23, insert the following: "The adopted plan and any modification shall be subject to a 30-day period of review by Congress in the manner provided for by act of the council under section 502(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act."

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 4, after line 11, insert: "The term resident of the District of Columbia means an individual has resided or has been domiciled in the District of Columbia for not less than 6 months."

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 5, line 10, technical amendment. Strike out "justice" and insert in lieu thereof "judge".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 5, lines 23 and 24, strike out "the list of District of Columbia licensed drivers,".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 8, line 11, strike out "$500" and insert in lieu there "$300".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 8, line 16, strike out "$1,000" and insert in lieu thereof $300", and on line 17, strike out "30" and insert in lieu thereof "90".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 9, line 10, strike out $1,000" and insert in lieu thereof "$300".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 11, line 15, insert "the United States" after "the District of Columbia".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 12, line 4, strike out "summoned" and insert in lieu thereof "required to serve".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 13, strike out lines 7 through 10 and insert in lieu thereof the following:

An employer who violates subsection (a) is guilty of criminal contempt and upon a finding of criminal contempt an employer may be fined not more than $300, imprisoned for not more than 30 days, or both, for a first offense, and may be fined not more than $5,000, imprisoned for not more than 180 days, or both, for any subsequent offense.

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 16, line 3, strike out "1 year" and insert in lieu thereof "180 days".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. TEMPLE. Page 16, line 5, strike out "the" and insert in lieu thereof "Upon enactment of this Act, the".

Mr. DYMALLY. Without objection, it is so ordered.

Mr. Bliley is recognized for a motion

Mr. BLILEY. Mr. Chairman, I move that we report the bill.

Mr. DYMALLY. Without objection, it is so ordered. The bill is reported to the full committee.

The subcommittee is adjourned. Thank you very much for coming.

[Whereupon, at 9:43 a.m., the subcommittee was adjourned.]

[The following markup is included as part of this hearing because H.R. 2946, the clean bill of H.R. 2717, was marked up en bloc with other bills, in serial No. 99–10 hearing.]

COMMITTEE MARKUP OF THE FOLLOWING BILLS EN BLOC: H.R. 2050, H.R. 2946, AND H.R. 3578

TUESDAY, OCTOBER 22, 1985

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE DISTRICT OF COLUMBIA,
Washington, DC.

The committee met, pursuant to call, at 9:15 a.m., in room 1310, Longworth House Office Building, Hon. Ronald V. Dellums (chairman of the committee) presiding.

Present: Representatives Dellums, Fauntroy, Mazzoli, Stark, Barnes, Dymally, Wheat, McKinney, and Combest.

Staff present: Edward C. Sylvester, Jr., staff director; Robert B. Brauer, senior staff assistant; Donald M. Temple, senior staff counsel; Sandra Fiske and Julius Hobson, Jr., staff assistants; Donn G. Davis, senior legislative associate; John Gnorski, minority staff director; and Ronald P. Hamm, minority staff assistant.

[The bill, H.R. 2946 follows:]

IA

Union Calendar No. 192

99TH CONGRESS
1ST SESSION

H. R. 2946

[Report No. 99–324]

To establish an independent jury system for the Superior Court of the District of Columbia.

IN THE HOUSE OF REPRESENTATIVES

JULY 10, 1985

Mr. DYMALLY (for himself and Mr. BLILEY) introduced the following bill; which was referred to the Committee on the District of Columbia

OCTOBER 23, 1985

Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

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A BILL

To establish an independent jury system for the Superior Court of the District of Columbia.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Jury System Act".

SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA JURY SYSTEM.

Chapter 19 of title 11 of the District of Columbia Code is amended to read as follows:

"CHAPTER 19. JURIES AND JURORS

Sec.
"11-1901. Declaration of policy.
"11-1902. Definitions.
"11-1903. Prohibition of discrimination.
"11-1904. Jury system plan.
"11-1905. Master juror list.
"11-1906. Qualification of jurors.
"11-1907. Summoning of prospective jurors.
"11-1908. Exclusion from jury service.
"11-1909. Deferral from jury service.
"11-1910. Challenging compliance with selection procedures.
"11-1911. Length of service.
"11-1912. Juror fees.
"11-1913. Protection of employment of jurors.
"11-1914. Preservation of records.
"11-1915. Fraud in the selection process.
"11-1916. Grand jury; additional grand jury.
"11-1917. Coordination and cooperation of courts.
"11-1918. Effect of invalidity.

"CHAPTER 19. JURIES AND JURORS

"§11-1901. Declaration of policy.

"A jury selection system is hereby established for the Superior Court of the District of Columbia. All litigants entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the residents of the District of Columbia. In accordance with the provisions of this chapter, all qualified individuals shall have the opportunity to be considered for service on grand and petit juries in the District of Columbia and shall be obligated to serve as jurors when summoned for that purpose.

"§11-1902. Definitions.

"For purposes of this chapter, the following terms have the following meanings:

"(1) The term 'Board of Judges' means the chief judge and the associate judges of the Superior Court of the District of Columbia.

"(2) The term 'chief judge' means the chief judge of the Superior Court of the District of Columbia.

"(3) The term 'clerk' means the clerk of the Superior Court of the District of Columbia or any deputy clerk.

"(4) The term 'Court' means the Superior Court of the District of Columbia and may include any judge of the Court acting in an official capacity.

"(5) The term 'juror' means (A) any individual summoned to Superior Court for the purpose of serving on a jury; (B) any individual who is on call and available to report to Court to serve on a jury upon request; and (C) any individual whose service on a jury is temporarily deferred.

"(6) The term 'jury' includes a grand or petit jury.

"(7) The term 'jury system plan' means the plan adopted by the Board of Judges of the Court, consistent with the provisions of this chapter, to govern the administration of the jury system.

"(8) The term 'master juror list' means the consolidated list or lists compiled and maintained by the Board of Judges of the District of Columbia Courts which contains the names of prospective jurors for service in the Superior Court of the District of Columbia.

"(9) The term 'random selection' means the selection of names of prospective jurors in a manner immune from the purposeful or inadvertent introduction of subjective bias, so that no recognizable class of the individuals on the list or lists from which the names are being selected can be purposefully or inadvertently included or excluded.

"(10) The term 'resident of the District of Columbia' means an individual who has resided or has been domiciled in the District of Columbia for not less than six months.

"§11-1903. Prohibition of discrimination.

"A citizen of the District of Columbia may not be excluded or disqualified from jury service as a grand or petit juror in the District of Columbia on account of race, color, religion, sex, national origin, ancestry, economic status, marital status, age, or (except as provided in this chapter) physical handicap.

"§11-1904. Jury System Plan.

"(a) The Board of Judges shall adopt, implement, and as necessary modify, a written jury system plan for the random selection and service of grand and petit jurors in the Superior Court consistent with the provisions of this chapter. The adopted plan and any modifications shall be subject to a 30-day period of review by Congress in the manner provided for an act of the Council under section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act. The plan shall include—

"(1) detailed procedures to be followed by the clerk of the Court in the random selection of names from the master juror list;

"(2) provisions for a master jury wheel (or other device of like purpose and function) which shall be emptied and refilled at specified intervals, not to exceed 24 months;

"(3) provisions for the disclosure to the parties and the public of the names of individuals selected for jury service, except in cases in which the chief judge determines that confidentiality is required in the interest of justice; and

"(4) procedures to be followed by the clerk of the Court in assigning individuals to grand and petit juries.

"(b) The jury system plan shall be administered by the clerk of the Court under the supervision of the Board of Judges.

"§11-1905. Master juror list.

"(a) The jury system plan shall provide for the compilation and maintenance by the Board of Judges of a master juror list from which names of prospective jurors shall be drawn. Such master juror list shall consist of the list of District of Columbia voters, individuals who submit their names to the Court for inclusion on the master juror list, and names from such other appropriate sources and lists as may be provided in the jury system plan.

"(b) Notwithstanding any other provision of law, upon request of the Board of Judges any person having custody, possession, or control of any list required under subsection (a) shall provide such list to the Court, at cost, at all reasonable times. Each list shall contain the names and addresses of individuals on the list. Any list obtained by the Court under the provisions of this chapter may be used by the Court only for the selection of jurors pursuant to this chapter.

"(c) Not less than once each year, the Board of Judges shall give public notice to the citizens of the District of Columbia that individuals may be included on the master juror list by submission of their names and addresses to the clerk of the Court. Such public notice shall be given through such

means as will reasonably assure as broad a dissemination as possible.

"§11-1906. Qualification of Jurors.

"(a) The jury system plan shall provide for procedures for the random selection and qualification of grand and petit jurors from the master juror list. Such plan may provide for separate or joint qualification and summoning processes.

"(b)(1) An individual shall be qualified to serve as a juror if that individual—

"(A) is a resident of the District of Columbia;

"(B) is a citizen of the United States;

"(C) has attained the age of 18 years; and

"(D) is able to read, speak, and understand the English language.

"(2) An individual shall not be qualified to serve as a juror—

"(A) if determined to be incapable by reason of physical or mental infirmity of rendering satisfactory jury service; or

"(B) if that individual has been convicted of a felony or has a pending felony or misdemeanor charge, except that an individual disqualified for jury service by reason of a felony conviction may qualify for jury service not less than one year after the completion of the term of incarceration, probation, or parole following

appropriate certification under procedures set out in the jury system plan.

"(3) Any determination regarding qualification for jury service shall be made on the basis of information provided in the juror qualification form and any other competent evidence.

"(c)(1) The jury system plan shall provide that a juror qualification form be mailed to each prospective juror. The form and content of such juror qualification form shall be determined under the plan. Notarization of the juror qualification form shall not be required.

"(2) An individual who fails to return a completed juror qualification form as instructed may be ordered by the Court to appear before the clerk to fill out such form, to appear before the Court and show cause why he or she should not be held in contempt for failure to submit the qualification form, or both. An individual who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $300, by imprisonment for not more than seven days, or both.

"(d) An individual who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be punished by a

fine of not more than $300, by imprisonment for not more than 90 days, or both.

"§11-1907. Summoning of Prospective Jurors.

"(a) At such times as are determined under the jury system plan, the Court shall summon or cause to be summoned from among qualified individuals under section 11-1906 sufficient prospective jurors to fulfill requirements for petit and grand jurors for the Court. A summons shall require a prospective juror to report for possible jury service at a specified time and place unless advised otherwise by the Court. Service of prospective jurors may be made personally or by first-class, registered, or certified mail as determined under the plan.

"(b) A prospective juror who fails to appear for jury duty may be ordered by the Court to appear and show cause why he or she should not be held in contempt for such failure to appear. A prospective juror who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $300, by imprisonment for not more than seven days, or both.

"§11-1908. Exclusion from jury service.

"(a) Subject to the provisions of this section and of sections 11-1903, 11-1906, and 11-1909, no individual or class

of individuals may be disqualified, excluded, excused, or exempt from service as a juror.

"(b) An individual summoned for jury service may be: (1) excluded by the Court on the ground that that individual may be unable to render impartial jury service or that his or her service as a juror would be likely to disrupt the proceedings; (2) excluded upon peremptory challenge as provided by law; (3) excluded pursuant to the procedure specified by law upon a challenge by any party for good cause shown; or (4) excluded upon determination by the Court that his or her service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (4) of this subsection unless the judge, in open Court, determines that such exclusion is warranted and that exclusion of that individual will not be inconsistent with sections 11-1901 and 11-1903 of this chapter.

"(c) An individual excluded from a jury shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to his or her ability to serve on such other jury. The procedures for challenges to and review of exclusions from jury service shall be set forth in the jury system pla

"§11-1909. **Deferral from jury service.**

"A qualified prospective juror may be deferred from jury service only upon a showing of undue hardship, extreme inconvenience, public necessity, or temporary physical or mental disability which would affect service as a juror. The procedure for requesting a deferral from jury service and the procedure and basis for granting a deferral shall be set forth in the master jury plan.

"§11-1910. **Challenging compliance with selection procedures.**

"(a) A party may challenge the composition of a jury by a motion for appropriate relief. A challenge shall be brought and decided before any individual juror is examined, unless the Court orders otherwise. The motion shall be in writing, supported by affidavit, and shall specify the facts constituting the grounds for the challenge. If the Court so determines, the motion may be decided on the basis of the affidavits filed with the challenge. If the Court orders trial of the challenge, witnesses may be examined on oath by the Court and may be so examined by either party.

"(b) If the Court determines that in selecting a grand or petit jury there has been a substantial failure to comply with this chapter, the Court shall stay the proceedings pending the selection of a jury in conformity with this chapter, quash the indictment, or grant other appropriate relief.

"(c) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the District of Columbia, the United States, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter. Nothing in this section shall preclude any person from pursuing any other remedy, civil or criminal, which may be available for the vindication or enforcement of any law prohibiting discrimination on account of race, color, religion, sex, national origin, economic status, marital status, age, or physical handicap in the selection of individuals for service on grand or petit juries.

"§11-1911. Length of service.

"The length of service for grand and petit jurors shall be determined by the master jury plan. In any twenty-four month period an individual shall not be required to serve more than once as a grand or petit juror except as may be necessary by reason of the insufficiency of the master juror list or as ordered by the Court.

"§11-1912. Juror fees.

"(a) Notwithstanding section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act, grand and petit jurors serving in the Superior Court shall receive fees and expenses at rates established by the Council of the District of Columbia, except that such fees and

expenses may not exceed the respective rates paid to such jurors in the federal system.

"(b) A petit or grand juror receiving benefits under the laws of employment security of the District of Columbia shall not lose such benefits on account of performance of juror service.

"(c) Employees of the United States or of any State or local government who serve as grand or petit jurors and who continue to receive regular compensation during the period of jury service shall not be compensated for jury service. Amounts representing reimbursement of expenses incurred in connection with jury service may be paid to such employees to the extent provided in the jury system plan.

"§11-1913. Protection of employment of jurors.

"(a) An employer shall not deprive an employee of employment, threaten, or otherwise coerce an employee with respect to employment because the employee receives a summons, responds to a summons, serves as a juror, or attends Court for prospective jury service.

"(b) An employer who violates subsection (a) is guilty of criminal contempt. Upon a finding of criminal contempt an employer may be fined not more than $300, imprisoned for not more than 30 days, or both, for a first offense, and may be fined not more than $5,000, imprisoned for not more than 180 days, or both, for any subsequent offense."

"(c) If an employer discharges an employee in violation of subsection (a), the employee within 9 months of such discharge may bring a civil action for recovery of wages lost as a result of the violation, for an order of reinstatement of employment, and for damages. If an employee prevails in an action under this subsection, that employee shall be entitled to reasonable attorney fees fixed by the court.

"§11-1914. Preservation of records.

"(a) All records and lists compiled and maintained in connection with the selection and service of jurors shall be preserved for the length of time specified in the jury system plan.

"(b) The contents of any records or lists used in connection with the selection process shall not be disclosed, except in connection with the preparation or presentation of a motion under §11-1910, or until all individuals selected to serve as grand or petit jurors from such lists have been discharged.

"§11-1915. Fraud in the selection process.

"An individual who commits fraud in the processing or selection of jurors or prospective jurors, either by causing any name to be inserted into any list maliciously or by causing any name to be deleted from any list maliciously (including malicious data entry or the altering of any data processing machine or any set of instructions or programs which control

data processing equipment for such malicious purpose), is guilty of the crime of jury tampering, and, upon conviction, may be punished by a fine of not more than $10,000, imprisonment for not more than two years, or both. This section shall not limit any other provisions of law concerning the crime of jury tampering.

"§11-1916. Grand jury; additional grand jury.

"(a) A grand jury serving in the District of Columbia may take cognizance of all matters brought before it regardless of whether an indictment is returnable in the Federal or District of Columbia courts.

"(b) If the United States Attorney for the District of Columbia certifies in writing to the chief judge that an additional grand jury is required, the judge may in his or her discretion order an additional grand jury summoned which shall be drawn at such time as he or she designates. Unless discharged by order of the judge, the additional grand jury shall serve until the end of the term for which it is drawn.

"§11-1917. Coordination and Cooperation of Courts.

"To the extent feasible, the Superior Court and the United States District Court shall consider the respective needs of each court in the qualification, selection, and service of jurors. Nothing in this chapter shall be construed to prevent such courts from entering into any agreement for sharing resources and facilities (including automated data proc-

essing hardware and software, forms, postage, and other resources).

"§11-1018. Effect of Invalidity.

"If any provision of this Act or the application of that provision is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

Section 1869(f) of title 28, United States Code, is amended by striking out "except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia".

SEC. 4. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the provisions of this Act shall take effect 180 days after the date of enactment of this Act.

(b) Upon enactment of this Act, the Board of Judges shall have authority to promulgate and adopt a jury system plan in accordance with this Act and the Court and the clerk of the Court shall have authority to take all necessary actions preliminary to the assumption of the administration of an independent jury system under this Act.

The CHAIRMAN. The Committee on the District of Columbia will come to order.

Before we proceed with the business of today's meeting, I am pleased to advise the committee members that Congressman Larry Combest from the 19th District of Texas has joined the committee, and we look forward to his participation, and the Chair would yield briefly to my distinguished colleague from Connecticut for any remarks he may have with respect to our new colleague.

Mr. MCKINNEY. Well, thank you, Mr. Chairman. There is a certain amount of heroism in anybody that wants to join us here in our happy family, and we have been understaff on the minority side, and I am delighted to be finally staffed again, so to speak.

The CHAIRMAN. I thank my colleague for his remarks.

The gentleman from California.

Mr. DYMALLY. Mr. Chairman, the gentleman from Texas I believe attended his first meeting last week, and we would extend to him a very warm welcome and look forward to working with him.

The CHAIRMAN. I thank the gentleman for his remarks.

The purpose of today's full committee meeting is to mark up three pieces of legislation which affect the city's authority over the parole of D.C. codefenders and matters related to the judicial system.

We are marking up bill H.R. 2050 on the parole board; H.R. 3578, a clean bill for the bill H.R. 3370 on court procedures. These bills were considered thoroughly at subcommittee hearings on October 1 and under our committee rule 0.3, on the recommendation of the subcommittee chairperson the majority members have agreed to consider these bills in full committee.

In addition, we have before us bill H.R. 2946, a clean bill for H.R. 2717, the jury system bill reported out by our Subcommittee on Judiciary and Education last June.

These bills have as their chief concern areas where the Federal interest is either nonexistent or virtually nonexistent.

In no other jurisdiction does the Federal Government play any direct role in these matters, and it is only logical and appropriate that the District of Columbia should also be preeminent in these strictly local matters.

The three bills before us would achieve this end.

I call on the subcommittee chairman, Hon. Mervyn Dymally, for a motion to report to the House H.R. 2050, H.R. 3578, and H.R. 2946, with such explanation as he may give so we can vote on these matters en bloc.

Mr. MCKINNEY. If the chairman would yield.

The CHAIRMAN. I would yield momentarily to the gentleman from Connecticut.

Mr. MCKINNEY. I have a letter to the chairman from the Honorable Thomas J. Bliley, Jr., saying:

> I am unavoidably absent both from any markup on Tuesday, October 26, 1985 and wish to formally state my intention to file additional views on any or all measures approved by the committee on Tuesday, October 22, including H.R. 2050, H.R. 2946 and H.R. 3578, and shall be as prompt in submitting these views as possible. Thanking you in advance.

The CHAIRMAN. The gentleman's communication to the full committee is duly noted, and the committee would take appropriate action.

The gentleman from California is recognized.

Mr. DYMALLY. Thank you, Mr. Chairman, for calling this meeting of the full committee to consider the bills before us.

I would like, Mr. Chairman, to explain each bill before moving for their approval.

First, H.R. 2050 is the same bill introduced and passed by the House of Representatives in the 98th Congress. It would transfer parole over District of Columbia Code offenders in Federal prisons from the U.S. Parole Commission to the D.C. Parole Board.

Mr. Chairman, I might add parenthetically, it is my intention to take staff up to Alderson, WV this weekend for an oversight visit, with the committee's permission.

The CHAIRMAN. Without objection.

Mr. DYMALLY. There are over 1,700 District of Columbia Code offenders housed in Federal Bureau of Prison facilities. Many District of Columbia Code offenders are placed in Federal facilities for selective custody and various other reasons.

Female D.C. offenders sentenced to greater than 1-year terms are routinely placed in Federal prisons as a matter of course. This is due to the absence of a local penal facility for female offenders. Most of these female offenders are confined to Alderson, WV, or 300 miles from the District of Columbia. Others are confined as far away as Texas.

Under present law at section 24-209 of the District of Columbia Code, the place of an offender's confinement determines parole authority. This law is contrary to current Federal/State parole practices.

According to the U.S. Parole Commission, the District of Columbia is the only local jurisdiction housing inmates in a Federal correction institution which does not retain its own parole authority. As a result of this practice, several Federal lawsuits by both male and female District of Columbia Code offenders in Federal prisons have been filed.

Several points are worth noting.

First, since the House passed this bill in the last Congress the District of Columbia has revised its parole guidelines consistent with seven recommendations made by Senator Arlen Specter and the U.S. attorney for the District of Columbia.

Second, the prison overcrowding problem in the District has resulted in an increased number of District of Columbia inmates being transferred to Federal prisons.

Third, Congress recently passed a Comprehensive Crime Control Act of 1983 which would abolish Federal parole and the U.S. Parole Commission in 1991.

Fourth, section 24-29 became law almost 50 years ago and 40 years prior to the Home Rule Act. Lawsuits filed in response to this provision remain unresolved and continue to consume time and expense.

This legislation provides a practical and logically sound remedy to this longstanding problem.

H.R. 3578, the Prosecutorial and Judicial Efficiency Act of 1985, is a clean bill version of H.R. 3370, which evolved in large part from recommendations of the District of Columbia Court Study Committee under the chairmanship of Mr. Charles Horsky and the District of Columbia courts.

The subcommittee held a hearing on both H.R. 2050 and H.R. 3370 on October 3, 1985, and received substantial testimony in support of these bills, along with constructive comments.

As a result, the majority and minority staff worked closely under the subcommittee chairman and ranking minority member's direction to work out any differences in H.R. 3370.

H.R. 3578 represents this bipartisan work product. But there are several minor technical amendments which have been brought to our attention by legislative counsel's office.

H.R. 2946, a clean bill for H.R. 2717, is a bill to establish an independent jury system for the Superior Court of the District of Columbia.

The subcommittee held hearings on H.R. 2717 on June 26, 1985, and reported a clean bill to the full committee.

Presently, the local judicial system's jury plan is determined by Federal judicial officers. The local court system, like that of other jurisdictions, is capable of administering its own jury system and determining its own jury needs and selection processes.

These bills have received broad-based support from the Mayor, the city council, the local board of parole, the superior court, the U.S. District Court on the jury bill, certain local bar association subdivisions, the Horsky committee, and the Council on Court Excellence.

Department of Justice opposition has been expressed to H.R. 2050 and H.R. 2946.

Mr. Chairman, I would like to move that the committee vote on the technical amendments to H.R. 3578 en bloc and thereafter, move that the committee favorably report H.R. 2050, H.R. 2946 and H.R. 3578 to the House of Representatives for its consideration and passage.

The CHAIRMAN. All right. Is there any discussion? The gentleman from the District of Columbia.

Mr. FAUNTROY. Mr. Chairman, I am pleased to offer my full support for the three bills brought forth by the Subcommittee on Judiciary and Education.

H.R. 2050, as the chairman has indicated, transfers parole authority over the District of Columbia offenders housed in Federal prisons from the U.S. Parole Commission to the District of Columbia Parole Board.

H.R. 2946 establishes an independent jury system for the Superior Court of the District of Columbia. This legislation, requested by the D.C. Superior Court and concerned groups, will provide for an efficient jury system for the District Superior Court. This change will make jury duty for District of Columbia citizens a more worthwhile civic duty.

H.R. 3578 will require criminal prosecutions concerning violations of the laws of the District of Columbia to be conducted in the name of the District. The bill further provides permanent authority for hearing commissioners in the District and modifies certain

procedures of the D.C. Judicial Nomination Commission and the D.C. Commission on Judicial Disabilities and Tenure.

Mr. Chairman, all of this legislation continues the committee's efforts to extend and enhance the concept of self-government for the District of Columbia.

I wish to commend the Subcommittee on Judiciary and Education under the chairmanship of Mr. Dymally and the ranking minority member, Mr. Bliley, for this significant legislation.

The CHAIRMAN. I thank the gentleman for his remarks.

Is there any further discussion?

Mr. DYMALLY. Mr. Chairman, I ask unanimous consent that all the technical amendments to these bills be approved.

The CHAIRMAN. Without objection, it is so ordered.

The Chair would indicate that we are waiting for one of our distinguished colleagues to arrive, and at that point it is the intention of the Chair that the clerk will call the role on the motion offered by the gentleman from California, the chairman of the subcommittee, that we pass these three bills en bloc.

Mr. DYMALLY. Mr. Chairman.

The CHAIRMAN. The gentleman from California.

Mr. DYMALLY. Because the H.R. 3578 has so many technical amendments, I want to make specific mention of H.R. 3578, a number of technical amendments.

The CHAIRMAN. The gentleman is clarifying his unanimous consent request?

Mr. DYMALLY. Yes.

The CHAIRMAN. With that clarification and without objection, the motion is agreed to and the amendments will be placed at the appropriate point in the record.

Mr. STARK. Mr. Chairman.

The CHAIRMAN. The gentleman from California, Mr. Stark.

Mr. STARK. A parliamentary inquiry, Mr. Chairman. What is the number of members necessary for a quorum?

The CHAIRMAN. One additional, seven.

Mr. STARK. I thank the Chair.

The CHAIRMAN. Then the clerk will call the roll on the motion offered by the gentleman from California, Mr. Dymally, that the three bills be passed en bloc.

The CLERK. Mr. Fauntroy?

Mr. FAUNTROY. Aye.

The CLERK. Mr. Mazzoli?

[No response.]

The CLERK. Mr. Stark?

Mr. STARK. Aye.

The CLERK. Mr. Gray?

The CHAIRMAN. Aye by proxy.

The CLERK. Mr. Barnes?

Mr. BARNES. Aye.

The CLERK. Mr. Dymally?

Mr. DYMALLY. Aye.

The CLERK. Mr. Wheat?

Mr. WHEAT. Aye.

The CLERK. Mr. McKinney?

Mr. MCKINNEY. Aye.

The CLERK. Mr. Parris?
[No response.]
The CLERK. Mr. Bliley?
[No response.]
The CLERK. Mr. Combest?
The CHAIRMAN. The gentleman is expected momentarily, so we will keep the roll open to allow the gentleman to vote, unless there are any objections.
The CLERK. Mr. Dellums?
The CHAIRMAN. Aye.
The CLERK. Mr. Chairman, eight votes aye, no votes nay.
The CHAIRMAN. It is the intention of the Chair that we would keep the roll open until such time as the gentleman from Texas arrives in order to cast his vote. He is on his way.
I thank my colleagues for providing us the necessary quorum to vote out the three bills.
While we are waiting, the Chair would like to thank the gentleman from California and the subcommittee for their diligent work and we appreciate their efforts on behalf of enhancing the quality of life for the residents of the District of Columbia. The gentleman has been very hard working and extraordinarily diligent in these matters and the Chair just wants that to be duly noted.
Mr. DYMALLY. Thank you very much, Mr. Chairman. I want a copy of your remarks to be transmitted to the District newspapers in Los Angeles.
Mr. Chairman, while we have some time, I want to again give notice that I intend to visit Alderson, WV this weekend and will take staff with me for a long overdue oversight visit.
The CHAIRMAN. We thank the gentleman for his efforts.
The gentleman from the District of Columbia.
Mr. FAUNTROY. May I commend the gentleman, as well, for his leadership and commitment to his responsibilities to the District of Columbia Committee and thus to the people of the District of Columbia.
I wish I could accompany you to Alderson. I have been there on at least one occasion. I shared with them the instructions from the black leadership family plan and I am looking forward to their reporting to the chairman how well they are doing in implementing their mission.
Mr. DYMALLY. Mr. Chairman.
The CHAIRMAN. The gentleman from California.
Mr. DYMALLY. I do want to bring to the committee and the chairman the work that the minority staff contributed to these three pieces of legislation. They were most helpful and the members of the minority side were also most cooperative in trying to bring these pieces of legislation before the full committee.
The CHAIRMAN. I thank the gentleman for his observation.
The Chair would like to note that our distinguished colleague, the gentleman from Texas, Mr. Combest, has arrived from another committee hearing and would like to repeat our remarks that we welcome the gentleman and we appreciate his interest in the Committee on the District of Columbia. We know in many ways it is a labor of love and, you know, one doesn't always get the kind of credit for this work back in the home district, but it is a necessary

job and we appreciate the gentleman for volunteering to serve on this important full committee.

Mr. COMBEST. Thank you.

Mr. MCKINNEY. Despite the fact, Mr. Chairman, that some of us questioned his sanity in doing so, before you arrived I am sure your ears were burning because we welcomed you with glowing platitudes and all other kinds of welcome. And there is my leader over there.

The CHAIRMAN. The gentleman from Kentucky.

Mr. MAZZOLI. I apologize for being late.

The CHAIRMAN. The Chair would like to indicate that we kept the roll open for both of you gentlemen, and the clerk will read—the Chair voted aye.

The CLERK. Mr. Mazzoli?

Mr. MAZZOLI. Aye.

The CLERK. Mr. Combest?

Mr. COMBEST. Aye.

I would like to say thank you, Mr. Chairman, and ranking member of the committee for welcoming me.

The CHAIRMAN. Thank you.

The CLERK. The vote now totals, Mr. Chairman, 10 votes yea, no votes nay.

The CHAIRMAN. All right. With a vote of 10 to zero, the motion offered by the gentleman from California, Mr. Dymally, has been approved and the three bills are approved en bloc and favorably reported to the House.

Is there any other business to come before the full committee?

[No response.]

The CHAIRMAN. If not, the committee stands in adjournment.

[Whereupon, at 10:10 a.m., the committee was adjourned.]

[The floor actions on H.R. 2050, H.R. 2946, and H.R. 3578 follow:]

[From the Congressional Record—House, Oct. 28, 1985]

DISTRICT OF COLUMBIA BUSINESS

The SPEAKER. The Chair recognizes the gentleman from California [Mr. Dellums], chairman of the Committee on the District of Columbia.

TRANSFER OF PAROLE AUTHORITY TO THE DISTRICT OF COLUMBIA PAROLE BOARD

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 2050) to give to the Board of Parole for the District of Columbia exclusive power and authority to make parole determinations concerning prisoners convicted of violating any law of the District of Columbia, or any law of the United States applicable exclusively to the District, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. Gray of Illinois). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2050

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. The first sentence of the first section of the Act entitled "An Act to reorganize the system of parole of prisoners convicted in the District of Columbia",

approved July 17, 1947 (D.C. Code, sec. 24-201a; 61 Stat. 378), is amended by striking out "for the penal and correctional institutions of the District of Columbia" and inserting in lieu thereof "for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia".

SEC. 2. The Act entitled "An Act to establish a Board of Indeterminate Sentence and Parole for the District of Columbia and to determine its functions, and for other purposes", approved July 15, 1932 (D.C. Code, sec. 24-203 through sec. 24-209; 47 Stat. 696-699), is amended—

(1) in section 6 (D.C. Code, sec. 24-206)—

(A) by striking out "(a)" in subsection (a); and

(B) by striking out subsection (b); and

(2) by striking out section 10 (D.C. Code, sec. 24-209) and inserting in lieu thereof the following new section:

"SEC. 10. The Board of Parole for prisoners convicted of violating any law of the District of Columbia or any law of the United States applicable exclusively to the District of Columbia (created pursuant to the first section of the Act entitled 'An Act to reorganize the system of parole of prisoners convicted in the District of Columbia', approved July 17, 1947 (D.C. Code, sec. 24-201a; 61 Stat. 378) has exclusive power and authority, subject to the provisions of this Act, to release on parole, to terminate the parole of, and to modify the terms and conditions of the parole of, any prisoner convicted of violating a law of the District of Columbia, or a law of the United States applicable exclusively to the District of Columbia, regardless of the institution in which the prisoner is confined.".

SEC. 3. Section 304(a) of the District of Columbia Law Enforcement Act of 1953 (D.C. Code, sec. 4-134(a); 67 Stat. 100) is amended by striking out ", or the United States Board of Parole has authorized the release of a prisoner under section 6 of that Act, as amended (D.C. Code, sec. 24-206),".

SEC. 4. (a) After the date of enactment of this Act, individual convicted of violating both a law of the District of Columbia (including any law of the United States applicable exclusively to the District) and a law of the United States shall be given separate and distinct sentences for such convictions.

(b) The United States Parole Commission shall retain parole authority over individuals who, prior to the date of enactment of this Act, received unified sentences for violations of both a law of the District of Columbia (including any law of the United States applicable exclusively to the District of Columbia) and a law of the United States.

SEC. 5. Within one year after the date of the enactment of this Act, the Board of Parole for the District of Columbia, under applicable guidelines, shall make parole eligibility determinations and shall set a date certain for full parole hearings for all individuals brought within the parole authority of such Board under this Act. Each such individual shall be notified in writing of any determinations made under this section.

SEC. 6. (a) Except as provided in subsection (b), the provisions of this Act shall take effect on the date of the enactment of this Act.

(b) The amendments made by sections 1, 2, and 3 of this Act shall take effect one year after the date of the enactment of this Act.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this is the third Congress in which this question has been before the body. Two years ago, the House on a voice vote adopted the change in the law, but no action was taken by the other body. Under present law in effect for 50 years or more, the vast majority of offenders convicted of violating either a local District of Columbia law or Federal law that applies only in the District served their sentences in facilities operated by the District of Columbia, and if they are granted parole, it is by the local D.C. Parole Board. One thousand seven-hundred offenders, however, serve in Federal facilities and are reviewed by the U.S. Board of Parole.

H.R. 2050, Mr. Speaker, merely establishes that since they are local offenders, parole jurisdiction will be with the local parole board. That is the arrangement, as you very well know, Mr. Speaker, in the 50 States and should apply here in the District of Columbia.

The chairman of our Subcommittee on Judiciary and Education that conducted the hearings on H.R. 2050 is the gentleman from California [Mr. Dymally], who will give a further explanation when he has the floor.

Mr. Speaker, I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, H.R. 2050, is the same bill introduced and passed by the House of Representatives in the 98th Congress. It would transfer parole over District of Co-

lumbia Code offenders in Federal prisons from the U.S. Parole Commission to the District of Columbia Parole Board.

There are over 1,700 District of Columbia Code offenders housed in Federal Bureau of Prison facilities. Male District of Columbia Code offenders are placed in Federal facilities for selective custody and various other reasons. Female District of Columbia offenders sentenced to greater than 1 year terms are routinely placed in Federal facilities as a matter of course. This is due to the absence of a local penal facility for female offenders. Most of these female offenders are confined at Alderson, WV, over 300 miles from the District of Columbia. Others are confined as far away as Texas.

Under present law, at section 24-209 of the District of Columbia Code, the place of an offender's confinement determines parole authority. This law is contrary to current Federal-State parole practices. According to the U.S. Parole Commission, the District of Columbia is the only local jurisdiction housing inmates in Federal correction institutions which does not retain its own parole authority. As a result of this practice, several Federal lawsuits by both male and female District of Columbia Code offenders in Federal prisons have been filed.

Several points are worth noting. First, since the House passed this bill in the last Congress, the District of Columbia has revised its parole guidelines, consistent with certain recommendations made by Senator Arlen Specter and U.S. attorney for the District of Columbia, Joseph diGenova. Most important, these revised guidelines are modeled closely after current Federal guidelines. Second, the overcrowding problem in the District has resulted in an increased number of District of Columbia inmates being transferred to Federal prisons. Third, Congress recently passed the Comprehensive Crime Control Act of 1983, which would abolish Federal parole and the U.S Parole Commission in 1991. Fourth, section 24-209 became law almost 50 years ago and 40 years prior to the Home Rule Act.

Lawsuits filed in response to this provision remain unsolved and continue to consume unnecessary time and expense. This legislation provides a practical and logically sound remedy to this longstanding problem and I believe that now is the time for this body to pass this legislation and to save the local government and the local and Federal courts further time and money.

Mr. Speaker, I would add that this bill is indeed a step toward home rule. But also, it is a cost efficient step. If passed, this legislation is estimated to save the Federal Government over $1.3 million on the average for the first 5 years after its passage. Thereafter, the District government will underwrite any expenses attached to the execution of its parole authority.

Thus, for the reasons which I've outlined, I strongly urge my colleagues to adopt this measure.

Mr. FAUNTROY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise in support of all three bills that have been reported by the Committee on the District of Columbia. I want to focus now, first of all, of course, upon H.R. 2050 which transfers parole authority over the District of Columbia offenders housed in Federal prisons from the U.S. Parole Commission to the District of Columbia Parole Board.

Mr. Speaker, currently there are over 1,400 D.C. Code offenders housed in Federal Bureau of Prisons facilities. Male D.C. Code offenders are placed in Federal facilities for selective custody, and various other reasons. Female D.C. Code offenders sentenced to greater than 1-year terms are placed in Federal facilities due to the absence of a facility specifically for female offenders here in Washington. Most of these female offenders are confined at Alderson, WV, whence the chairman of the subcommittee, Mr. Dymally, has just come. As he has pointed out to you, it is over 300 miles away from the District of Columbia.

Mr. DYMALLY. Mr. Speaker, will the gentleman yield?

Mr. FAUNTROY. I yield to the gentleman.

Mr. DYMALLY. I thank the gentleman for yielding.

Mr. Speaker, I am pleased to inform the gentleman that some of the inmates were most appreciative of your interest in this inconvenience which their families suffer, and have asked me to convey to you the hope that you would continue this fight to have a facility constructed in the District of Columbia.

Mr. FAUNTROY. I thank the gentleman for his leadership in moving H.R. 2050 through the committee process and now to the floor. I am sure that their hopes will be realized as a result of the vote of the House today.

Mr. Speaker, at present, under the District Code, the determination of parole jurisdiction is controlled by the place of incarceration rather than the jurisdiction of conviction. The result is that the District Board of Parole makes parole decisions for District offenders when they are housed in District institutions, and the U.S. Parole

Commission makes parole decisions for District Code offenders when they are housed in Federal institutions.

Mr. Speaker, H.R. 2050 expands the authority of the District of Columbia government by providing it with the right to determine paroles for District Code offenders whether held in District or Federal facilities.

Mr. Speaker, H.R. 2946 establishes an independent jury system for the District of Columbia, our local court. This legislation requested by the Superior Court of the District of Columbia and concerned groups will provide for an efficient jury system for the superior court. This change will help make jury duty for the District of Columbia citizens a more worthwhile civic duty.

The third measure, H.R. 3578, as amended, Mr. Speaker, will require criminal prosecutions concerning violations of the laws of the District of Columbia to be conducted in the name of the District. The bill further provides permanent authority for Hearing Commissioners in the District and modifies certain procedures of the District of Columbia Judicial Nomination Commission, and the District Commission on Judicial Disabilities and Tenure. Mr. Speaker, all three bills further the independence of the District of Columbia judicial and criminal justice system and thereby enhance self-government.

I wish to commend the chairman of the District Committee, Congressman Ronald Dellums, and the ranking minority member, Mr. McKinney. I would also like to thank Mr. Dymally, chairman of the Subcommittee on Judiciary and Education, and Mr. Bliley, the ranking minority member.

Mr. Speaker, as you know, I represent more people, taxpayers, than any single voting Member of the House. Indeed, I represent more people who pay taxes in this country than elect seven Senators, because there are, as you know, more citizens in the District of Columbia than reside in seven States in the Union. So I would prefer to have been here not simply to expand the parole authority of the District government with respect to those convicted of code violations in this city, but to turn the entire system over to the local citizenry inasmuch as we, alone among Americans, are continued denial of the right to representation in the U.S. House and Senate.

I would prefer to have passed a measure that would turn the entire court system over to the superior court and therefore allow us to fashion our own jury system procedures. Of course, I would certainly have preferred to have passed H.R. 3578, as amended, as a function of a locally elected mayor and city council, thus providing us the kind of permanent authority that we request here in terms of control of our criminal prosecutions.

Mr. Speaker, I yield back the balance of that time that those two Senators who would have been speaking, rather those Representatives who would have been speaking, had they been freed from the tyranny of taxation without representation here in the District of Columbia, as I am not.

Mr. BLILEY. Mr. Speaker, as the ranking minority member of the Judiciary and Education Subcommittee of the Committee on the District of Columbia, I rise in support of H.R. 2050.

As explained by the distinguished chairman of the subcommittee, Mr. Dymally, this bill is a question of equity. The fact is that some convicted District of Columbia criminals are sent to the District's prison at Lorton and some are sent to various Federal institutions around the country. For those people at Lorton, the District Parole Board has jurisdiction, for those men and women in Federal prisons, the Federal Parole Board and its rules and regulations apply.

Since the two parole authorities with responsibility for District prisoners have different criteria and regulations as well as the fact that different conditions may lead to different attitudes and therefore different behavior patterns affecting parole possibilities, I believe that it is a simple question of equity that the District of Columbia have sole parole authority over its own citizens.

I speak for the minority members of the committee when I say that this legislation is fair and equitable for the people and the government of the District of Columbia and we endorse its passage.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

[From the Congressional Record—House, October 28, 1985]

DISTRICT OF COLUMBIA JURY SYSTEM ACT

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 2946) to establish an independent jury system for the Superior Court of the District of Columbia, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 2946

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Jury System Act".

SEC. 2. ESTABLISHMENT OF DISTRICT OF COLUMBIA JURY SYSTEM.

Chapter 19 of title 11 of the District of Columbia Code is amended to read as follows:

"CHAPTER 19. JURIES AND JURORS

Sec.
"11-1901. Declaration of policy.
"11-1902. Definitions.
"11-1903. Prohibition of discrimination.
"11-1904. Jury system plan.
"11-1905. Master juror list.
"11-1906. Qualification of jurors.
"11-1907. Summoning of prospective jurors.
"11-1908. Exclusion from jury service.
"11-1909. Deferral from jury service.
"11-1910. Challenging compliance with selection procedures.
"11-1911. Length of service.
"11-1912. Juror fees.
"11-1913. Protection of employment of jurors.
"11-1914. Preservation of records.
"11-1915. Fraud in the selection process.
"11-1916. Grand jury; additional grand jury.
"11-1917. Coordination and cooperation of courts.
"11-1918. Effect of invalidity.

"CHAPTER 19. JURIES AND JURORS

"§ 11-1901. Declaration of policy.

"A jury selection system is hereby established for the Superior Court of the District of Columbia. All litigants entitled to trial by jury shall have the right to grand and petit juries selected at random from a fair cross section of the residents of the District of Columbia. In accordance with the provisions of this chapter, all qualified individuals shall have the opportunity to be considered for service on grand and petit juries in the District of Columbia and shall be obligated to serve as jurors when summoned for that purpose.

"§ 11-1902. Definitions.

"For purposes of this chapter, the following terms have the following meanings.

"(1) The term 'Board of Judges' means the chief judge and the associate judges of the Superior Court of the District of Columbia.

"(2) The term 'chief judge' means the chief judge of the Superior Court of the District of Columbia.

"(3) The term 'clerk' means the clerk of the Superior Court of the District of Columbia or any deputy clerk.

"(4) The term 'Court' means the Superior Court of the District of Columbia and may include any judge of the Court acting in an official capacity.

"(5) The term 'juror' means (A) any individual summoned to Superior Court for the purpose of serving on a jury; (B) any individual who is on call and available to report to Court to serve on a jury upon request; and (C) any individual whose service on a jury is temporarily deferred.

"(6) The term 'jury' includes a grand or petit jury.

"(7) The term 'jury system plan' means the plan adopted by the Board of Judges of the Court, consistent with the provisions of this chapter, to govern the administration of the jury system.

"(8) The term 'master juror list' means the consolidated list or lists compiled and maintained by the Board of Judges of the District of Columbia Courts which contains the names of prospective jurors for service in the Superior Court of the District of Columbia.

"(9) The term 'random selection' means the selection of names of prospective jurors in a manner immune from the purposeful or inadvertent introduction of subjective bias, so that no recognizable class of the individuals on the list or lists from which the names are being selected can be purposefully or inadvertently included or excluded.

"(10) The term 'resident of the District of Columbia' means an individual who has resided or has been domiciled in the District of Columbia for not less than six months.

"§ 11-1903. Prohibition of discrimination.

"A citizen of the District of Columbia may not be excluded or disqualified from jury service as a grand or petit juror in the District of Columbia on account of race, color, religion, sex, national origin, ancestry, economic status, marital status, age, or (except as provided in this chapter) physical handicap.

"§ 11-1904. Jury System Plan.

"(a) The Board of Judges shall adopt, implement, and as necessary modify, a written jury system plan for the random selection and service of grand and petit jurors in the Superior Court consistent with the provisions of this chapter. The adopted plan and any modifications shall be subject to a 30-day period of review by Congress in the manner provided for an act of the Council under section 602(c)(1) of the District of Columbia Self-Government and Government Reorganization Act. The plan shall include—

"(1) detailed procedures to be followed by the clerk of the Court in the random selection of names from the master juror list;

"(2) provisions for a master jury wheel (or other device of like purpose and function) which shall be emptied and refilled at specified intervals, not to exceed 24 months;

"(3) provisions for the disclosure to the parties and the public of the names of individuals selected for jury service, except in cases in which the chief judge determines that confidentiality is required in the interest of justice; and

"(4) procedure to be followed by the clerk of the Court in assigning individuals to grand and petit juries.

"(b) The jury system plan shall be administered by the clerk of the Court under the supervision of the Board of Judges.

"§ 11-1905. Master juror list.

"(a) The jury system plan shall provide for the compilation and maintenance by the Board of Judges of a master juror list from which names of prospective jurors shall be drawn. Such master juror list shall consist of the list of District of Columbia voters, individuals who submit their names to the Court for inclusion on the master juror list, and names from such other appropriate sources and lists as may be provided in the jury system plan.

"(b) Notwithstanding any other provision of law, upon request of the Board of Judges any person having custody, possession, or control of any list required under subsection (a) shall provide such list to the Court, at cost, at all reasonable times.

Each list shall contain the names and addresses of individuals on the list. Any list obtained by the Court under the provisions of this chapter may be used by the Court only for the selection of jurors pursuant to this chapter.

"(c) Not less than once each year, the Board of Judges shall give public notice to the citizens of the District of Columbia that individuals may be included on the master juror list by submission of their names and addresses to the clerk of the Court. Such public notice shall be given through such means as will reasonably assure as broad a dissemination as possible.

"§ 11-1906. Qualification of Jurors.

"(a) The jury system plan shall provide for procedures for the random selection and qualification of grand and petit jurors from the master juror list. Such plan may provide for separate or joint qualification and summoning processes.

"(b)(1) An individual shall be qualified to serve as a juror if that individual—

"(A) is a resident of the District of Columbia;

"(B) is a citizen of the United States;

"(C) has attained the age of 18 years; and

"(D) is able to read, speak, and understand the English language.

"(2) An individual shall not be qualified to serve as a juror—

"(A) if determined to be incapable by reason of physical or mental infirmity of rendering satisfactory jury service; or

"(B) if that individual has been convicted of a felony or has a pending felony or misdemeanor charge, except that an individual disqualifed for jury service by reason of a felony conviction may qualify for jury service not less than one year after the completion of the term of incarceration, probation, or parole following appropriate certification under procedures set out in the jury system plan.

"(3) Any determination regarding qualification for jury service shall be made on the basis of information provided in the juror qualification form and any other competent evidence.

"(c)(1) The jury system plan shall provide that a juror qualification form be mailed to each prospective juror. The form and content of such juror qualification form shall be determined under the plan. Notarization of the juror qualification form shall not be required.

"(2) An individual who fails to return a completed juror qualification form as instructed may be ordered by the Court to appear before the clerk to fill out such form, to appear before the Court and show cause why he or she should not be held in contempt for failure to submit the qualification form, or both. An individual who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $300, by imprisonment for not more than seven days, or both.

"(d) An individual who intentionally misrepresents a material fact on a juror qualification form for the purpose of avoiding or securing service as a juror may be punished by a fine of not more than $300, by imprisonment for not more than 90 days, or both.

"§ 11-1907. Summoning of Prospective Jurors.

"(a) At such times as are determined under the jury system plan, the Court shall summon or cause to be summoned from among qualified individuals under section 11-1906 sufficient prospective jurors to fulfill requirements for petit and grand jurors for the Court. A summons shall require a prospective juror to report for possible jury service at a specified time and place unless advised otherwise by the Court. Service of prospective jurors may be made personally or by first-class, registered, or certified mail as determined under the plan.

"(b) A prospective juror who fails to appear for jury duty may be ordered by the Court to appear and show cause why he or she should not be held in contempt for such failure to appear. A prospective juror who fails to show good cause for such failure, or who without good cause fails to appear pursuant to a Court order, may be punished by a fine of not more than $300, by imprisonment for not more than seven days, or both.

"§ 11-1908. Exclusion from jury service.

"(a) Subject to the provisions of this section and of sections 11-1903, 11-1906, and 11-1909, no individual or class of individuals may be disqualified, excluded, excused, or exempt from service as a juror.

"(b) An individual summoned for jury service may be: (1) excluded by the Court on the ground that that individual may be unable to render impartial jury service or that his or her service as a juror would be likely to disrupt the proceedings; (2) excluded upon preemptory challenge as provided by law; (3) excluded pursuant to the

procedure specified by law upon a challenge by any party for good cause shown; or (4) excluded upon determination by the Court that his or her service as a juror would be likely to threaten the secrecy of the proceedings, or otherwise adversely affect the integrity of jury deliberations. No person shall be excluded under clause (4) of this subsection unless the judge, in open Court, determines that such exclusion is warranted and that exclusion of that individual will not be inconsistent with sections 11-1901 and 11-1903 of this chapter.

"(c) An individual excluded from a jury shall be eligible to sit on another jury if the basis for the initial exclusion would not be relevant to his or her ability to serve on such other jury. The procedures for challenges to and review of exclusions from jury service shall be set forth in the jury system plan.

"§ 11-1909. Deferral from jury service.

"A qualified prospective juror may be deferred from jury service only upon a showing of undue hardship, extreme inconvenience, public necessity, or temporary physical or mental disability which would affect service as a juror. The procedure for requesting a deferral from jury service and the procedure and basis for granting a deferral shall be set forth in the master plan.

"§ 11-1910. Challenging compliance with selection procedures.

"(a) A party may challenge the composition of a jury by a motion for appropriate relief. A challenge shall be brought and decided before any individual juror is examined, unless the Court orders otherwise. The motion shall be in writing, supported by affidavit, and shall specify the facts constituting the grounds for the challenge. If the Court so determines, the motion may be decided on the basis of the affidavits filed with the challenge. If the Court orders trial of the challenge, witnesses may be examined on oath by the Court and may be so examined by either party.

"(b) If the Court determines that in selecting a grand or petit jury there has been a substantial failure to comply with this chapter, the Court shall stay the proceedings pending the selection of a jury in conformity with this chapter, quash the indictment, or grant other appropriate relief.

"(c) The procedures prescribed by this section are the exclusive means by which a person accused of a crime, the District of Columbia, the United States, or a party in a civil case may challenge a jury on the ground that the jury was not selected in conformity with this chapter. Nothing in this section shall preclude any person from pursuing any other remedy, civil or criminal, which may be available for the vindication or enforcement of any law prohibiting discrimination on account of race, color, religion, sex, national origin, economic status, marital status, age, or physical handicap in the selection of individuals for service on grand or petit juries.

"§ 11-1911. Length of service.

"The length of service for grand and petit jurors shall be determined by the master jury plan. In any twenty-four month period an individual shall not be required to serve more than once as a grand or petit juror except as may be necessary by reason of the insufficiency of the master juror list or as ordered by the Court.

"§ 11-1912. Juror fees.

"(a) Notwithstanding section 602(a) of the District of Columbia Self-Government and Governmental Reorganization Act, grand and petit jurors serving in the Superior Court shall receive fees and expenses at rates established by the Council of the District of Columbia, except that such fees and expenses may not exceed the respective rates paid to such jurors in the federal system.

"(b) A petit or grand juror receiving benefits under the laws of employment security of the District of Columbia shall not lose such benefits on account of performance of juror service.

"(c) Employees of the United States or of any State or local government who serve as grand or petit jurors and who continue to receive regular compensation during the period of jury service shall not be compensated for jury service. Amounts representing reimbursement of expenses incurred in connection with jury service may be paid to such employees to the extent provided in the jury system plan.

"§ 11-1913. Protection of employment of jurors.

"(a) An employer shall not deprive an employee of employment, threaten, or otherwise coerce an employee with respect to employment because the employee receives a summons, responds to a summons, serves as a juror, or attends Court for prospective jury service.

"(b) An employer who violates subsection (a) is guilty of criminal contempt. Upon a finding of criminal contempt an employer may be fined not more than $300, im-

prisoned for not more than 30 days, or both, for a first offense, and may be fined not more than $5,000, imprisoned for not more than 180 days, or both, for any subsequent offense.

"(c) If an employer discharges an employee in violation of subsection (a), the employee within 9 months of such discharge may bring a civil action for recovery of wages lost as a result of the violation, for an order of reinstatement of employment, and for damages. If an employee prevails in an action under this subsection, that employee shall be entitled to reasonable attorney fees fixed by the court.

"§ 11-1914. Preservation of records.

"(a) All records and lists compiled and maintained in connection with the selection and service of jurors shall be preserved for the length of time specified in the jury system plan.

"(b) The contents of any records or lists used in connection with the selection process shall not be disclosed, except in connection with the preparation or presentation of a motion under § 11-1910, or until all individuals selected to serve as grand or petit jurors from such lists have been discharged.

"§ 11-1915. Fraud in the selection process.

"An individual who commits fraud in the processing or selection of jurors or prospective jurors, either by causing any name to be inserted into any list maliciously or by causing any name to be deleted from any list maliciously (including malicious data entry or the altering of any data processing machine or any set of instructions or programs which control data processing equipment for such malicious purpose), is guilty of the crime of jury tampering, and, upon conviction, may be punished by a fine of not more than $10,000, imprisonment for not more than two years, or both. This section shall not limit any other provisions of law concerning the crime of jury tampering.

"§ 11-1916. Grand jury; additional grand jury.

"(a) A grand jury serving in the District of Columbia may take cognizance of all matters brought before it regardless of whether an indictment is returnable in the Federal or District of Columbia courts.

"(b) If the United States Attorney for the District of Columbia certifies in writing to the chief judge that an additional grand jury is required, the judge may in his or her discretion order an additional grand jury summoned which shall be drawn at such time as he or she designates. Unless discharged by order of the judge, the additional grand jury shall serve until the end of the term for which it is drawn.

"§ 11-1917. Coordination and Cooperation of Courts.

"To the extent feasible, the Superior Court and the United States District Court shall consider the respective needs of each court in the qualification, selection, and service of jurors. Nothing in this chapter shall be construed to prevent such courts from entering into any agreement for sharing resources and facilities (including automated data processing hardware and software, forms, postage, and other resources).

"§ 11-1018. Effect of Invalidity.

"If any provision of this Act or the application of that provision is held invalid, such invalidity shall not affect any other provision or application of this Act which can be given effect without the invalid provision or application.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENTS.

Section 1869(f) of title 28, United States Code, is amended by striking out "except that for purposes of sections 1861, 1862, 1866(c), 1866(d), and 1867 of this chapter such terms shall include the Superior Court of the District of Columbia".

SEC. 4. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the provisions of this Act shall take effect 180 days after the date of enactment of this Act.

(b) Upon enactment of this Act, the Board of Judges shall have authority to promulgate and adopt a jury system plan in accordance with this Act and the Court and the clerk of the Court shall have authority to take all necessary actions preliminary to the assumption of the administration of an independent jury system under this Act.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word. Mr. Speaker, this bill relieves the U.S. courts of the task of calling jurors to serve at trials in local District of Columbia courts. The present practice is a holdover from 1970, when the U.S. court handled felony trials and appeals for local offenses. In 1970, the Congress cre-

ated a trial court and appeals court especially to handle such local cases. If H.R. 2946 becomes law, the local court will handle just the local cases, and the U.S. district court would just call jurors for Federal cases.

A full explanation of the bill will be given by my distinguished colleague, the gentleman from California [Mr. Dymally], who chairs the Subcommittee on Judiciary and Education, when he is recognized.

Mr. Speaker, with that brief explanation, I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill is quite simple. H.R. 2946 is a bill to establish an independent jury system for the Superior Court of the District of Columbia.

In 1970, this body and Congress passed the District of Columbia Court Reform Act, which became effective in 1971. We established a D.C. court system expressly analogous to State court systems. After nearly 15 years of self-management and competitive efficiency, the court is prepared to administer its own jury system, independent of the U.S. District Court for the District of Columbia.

Most important, it is quite capable of doing so and at the same time continuing to work closely and cooperate with the U.S. District Court for the District of Columbia. Hence, the local district court is "strongly supportive" of this transition. As do State courts, the local courts here have local needs which, like State courts, they should have the authority to address.

Against this backdrop, I urge my fellow Members of this august body to adopt H.R. 2946.

Mr. BLILEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise as a cosponsor and as the ranking member of the Subcommittee on Judiciary and Education in strong support of H.R. 2946.

This legislation is needed for the District of Columbia court system to effectively and efficiently deal with the large caseload of court proceedings that it is faced with. Last year this body authorized seven new superior court judges for the District of Columbia. The addition of these positions has overstrained the limited capacity of the present jury selection system employed by the District courts.

The courts have also instituted the "one day, one trial" method of jury duty which places larger demands on the panels of jury selection than the traditional method of jury service. I support one day, one trial and I am proud of the work that the chairman of the subcommittee and I did in achieving this carefully written bipartisan bill. The gentleman from California and myself worked hard on this legislation and I feel confident that I speak for the minority on the committee when I say that we enthusiastically support this bill.

Mr. DYMALLY. Mr. Speaker, will the gentleman yield?

Mr. BLILEY. I am happy to yield to the gentleman from California.

Mr. DYMALLY. Mr. Speaker, I want to take this opportunity to express my deep gratitude to the gentleman from Virginia [Mr. Bliley] for his support of this legislation and other legislation affecting the judiciary in the District of Columbia. The gentleman from Virginia has been most cooperative in the committee's deliberations, and I wish to express my thanks to him.

Mr. BLILEY. Mr. Speaker, I thank the gentleman from California [Mr. Dymally], and I yield back the balance of my time.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise simply to compliment the gentleman from California [Mr. Dymally] and the gentleman from Virginia [Mr. Bliley] for their diligent activity and their conscientious efforts as the chairperson of the Subcommittee on Judiciary and Education and the ranking minority member of that subcommittee. Both of these gentlemen are very delightful members to work with. They are conscientious, hard-working members who are very diligent about the business of trying to rectify many of the inadequacies that exist between the Federal Government and the residents of the District of Columbia.

My purpose in rising was only to make that statement, Mr. Speaker, and I yield back the balance of my time.

Mr. BLAZ. Mr. Speaker, I move to strike the last word.

(Mr. Blaz asked and was given permission to include extraneous matter.)

Mr. BLAZ. Mr. Speaker, I present for inclusion in the Record various items of correspondence from the Department of Justice objecting to the legislation presently being considered. Those items are as follows:

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, October 28, 1985

Hon. ROBERT H. MICHEL,
Minority Leader, U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MICHEL: The following bills are scheduled for floor action on Monday, October 28, 1985 on the District Calendar:

H.R. 2050.—a bill to transfer parole authority over District of Columbia offenders housed in federal prison from the United States Parole Commission to the District of Columbia Parole Board.

H.R. 2946.—a bill to establish an independent jury system for the Superior Court of the District of Columbia.

H.R. 3578.—(We are not sure which bill H.R. 3578 or H.R. 3592 will be scheduled for floor action. Originally, H.R. 3370 was introduced on September 19, 1985. A staff mark-up resulted in H.R. 3578 being introduced on October 17, which the Committee reported out. Subsequent to the Committee mark-up, H.R. 3592, which is a clean version of H.R. 3578 with additional amendments, was introduced.)—a bill to provide permanent authority for hearing commissioners in the District of Columbia courts, to modify certain procedures of the District of Columbia courts, to modify certain procedures of the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure, and for other purposes.

The Department of Justice has sent letters of opposition on H.R. 2050 and H.R. 2946 to the Committee on the District of Columbia (copies attached).

H.R. 2050

The Department opposes H.R. 2050 for several reasons:

(1) Place of incarceration rather than jurisdiction of correction determines parole jurisdiction under the D.C. Code.

(2) The policies and procedures of the D.C. Board of Parole were called into serious question during a hearing on similar legislation (H.R. 3369) during the 98th Congress.

(3) New guidelines established by D.C. Board of Parole in the Spring of 1985 have not yet been analyzed for efficiency and effectiveness.

(4) The U.S. Sentencing Commission established under P.L. 98-473 (Comprehensive Crime Control Act of 1984) and recently confirmed by the Senate will have to address this issue as it determines how to phase out the U.S. Parole Commission (abolished under P.L. 98-473).

(5) A piecemeal approach to the D.C. sentencing and correctional practices is a real and direct threat to law enforcement interests in the District, especially since August of 1985 when the Federal Bureau of Prisons started to assume custody of all D.C. Code violators sentenced in D.C. Superior Court to assist the District government in responding to a court order to reduce overcrowding at its correctional facilities.

H.R. 2946

While H.R. 2946 contains significant improvements over the jury selection system now in effect in the federal courts, e.g. broadening the base of persons who can be summoned for jury duty, narrowing the number of automatic exclusions from jury service, and increasing the penalties for certain fraudulent conduct in the jury selection process, we do not believe that a bifurcated approach to the D.C. jury selection system—one for the local trial court and one for the federal trial court—is a prudent or efficient one. Such a bifurcated approach would entail administrative difficulties, duplication of effort and additional cost to the federal government. For these reasons, we oppose H.R. 2946 in its present form, but we would consider changes to the Jury Selection and Service Act to incorporate the improvements contained in H.R. 2946.

H.R. 3578

Although this Department has not been asked to comment on H.R. 3370, H.R. 3578 or H.R. 3592, we do have concerns about several provisions contained in these related bills. H.R. 3592 (introduced as a clean version of H.R. 3578 but with several technical amendments) appears to be the bill scheduled for floor action. We do object to Section 2 of this bill which requires the U.S. Attorney for District of Co-

lumbia to compile an annual report by category of offense and conviction of D.C. Code violators, and violators of U.S. law exclusive to the District of Columbia. The material is now available and a matter of public record. To have the local U.S. Attorney's office utilize the manpower and resources necessary to compile and publish this report would create serious budgetary problems for that office—an issue the Committee failed to address.

Sections 10–11 of H.R. 3592 would govern public access to materials of the Judicial Nomination Commission. It is our belief that confidentiality promotes candor in such proceedings but we recognize that there may be instances where total secrecy is unfair. Section 13 requires in part that the record and materials filed in connection with the Judicial Disability and Tenure Commission be kept confidential unless the judge whose conduct or health is at issue authorizes disclosure. It is not clear whether the judge can authorize disclosure of some of the information while suppressing the rest. If so, this could result in presenting a very one-sided picture to the public. We suggest that either of the following approaches would be preferable:

(1) requiring a judge who wants part of the record to be made public to consent to all of it being made public, or

(2) following the rule which applies in grand jury proceedings, i.e., the record is kept secret and the decision makers are sworn to secrecy, but witnesses may tell the public about their testimony and submissions if they wish.

We would appreciate any assistance you could give in making our views known on these issues.

The Office of Management and Budget has advised this Department and that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, September 27, 1985.

Hon. RONALD DELLUMS,
Chairman, Committee on the District of Columbia,
Washington, DC.

DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice on H.R. 2050, a bill "to give to the Board of Parole of the District of Columbia exclusive power and authority to make parole determination concerning prisoners convicted of violating any law of the District of Columbia, or any law of the United States applicable exclusively to the District." As set forth in more detail below, the Department of Justice believes that the change sought by this bill would not improve the law enforcement and corrections programs in the District of Columbia and we therefore oppose this bill. Furthermore, we believe that Congress should not undertake piecemeal revisions of the D.C. corrections programs until completion of a thorough and comprehensive review of all sentencing and correctional practices.

At present under the D.C. Code, the determination of parole jurisdiction is controlled by the place of incarceration rather than the jurisdiction of conviction. The result is that the D.C. Board of Parole makes parole decisions for D.C. Code offenders when they are housed in D.C. institutions and the United States Parole Commission makes parole decisions for D.C. Code offenders when they are housed in federal institutions. At the present time over 1,400 D.C. Code offenders are held in Federal Bureau of Prisons facilities. This represents the designed capacity of three modern correctional institutions. Although some of these are in federal custody because of their extremely violent criminal histories or to separate them from other District of Columbia inmates, the bulk of them are in federal custody primarily because of shortages of space to house inmates in the District of Columbia system. Thus, two factors not addressed in H.R. 2050 are the real burden to the Federal Bureau of Prisons of confining this large group of local offenders and the serious problems involved in adding these geographically dispersed inmates to the D.C. Parole Board's caseload.

In the 1930's when the D.C. Board of Parole was established, this divided jurisdictional scheme may have met correctional needs. The Comprehensive Crime Control Act of 1983 abolishes the United States Parole Commission in 1991, however, and legislative attention must clearly be given to the questions of future parole responsi-

bility for D.C. Code offenders designated to Federal institutions. At the same time every effort must be made to insure that the District of Columbia will provide adequate prison space to house its sentenced criminals.

A larger question is what role should parole serve as a correctional tool in the District of Columbia? The legislative history of the Comprehensive Crime Control Act of 1984, P.L. 98-473, clearly reflects the Congressional determination that the "rehabilitation model" upon which the Federal sentencing and parole system was based is no longer valid. S. Rep. No. 225, 98th Congress, 1st Sess. 38 (1983). Based upon a study spanning a decade conducted by the National Commission on Reform of Federal Criminal Law, it was concluded that the Federal sentencing and parole system resulted in significant disparities in criminal sentences. As stated in the Senate Report:

"The shameful disparity in criminal sentences is a major flaw in the existing criminal justice system, and makes it clear that the system is ripe for reform. Correcting our arbitrary and capricious method of sentencing will not be a panacea for all of the problems which confront the administration of criminal justice, but it will constitute a significant step forward.

"The [Comprehensive Crime Control Act of 1984 (CCCA)] meets the critical challenges of sentencing reform. The [CCCA's] sweeping provisions are designed to structure judicial sentencing discretion, eliminate indeterminate sentencing, phase out parole release, and make criminal sentencing fairer and more certain. The current effort constitutes an important attempt to reform the manner in which we sentence convicted offenders. The Committee believes that the [CCCA] represents a major breakthrough in this area." *Id.* at 65.

The current D.C. sentencing and parole system does not reflect this new understanding of the limitations of the "rehabilitation model" as described above.

In addition, the District of Columbia parole system has other demonstrated problems. When we reviewed similar legislation two years ago [H.R. 3369], this matter was discussed in detail in our letter dated July 25, 1983 from Assistant Attorney General Robert A. McConnell to you. The Department noted at that time that the D.C. Board of Parole, according to its 1982 annual report, granted parole at initial hearings to 61 percent of the adult offenders and that 73 percent of the remainder were granted parole upon a rehearing. The Board also reported however, that based upon a study of a selected sample of 322 parolees released on parole between 1977 and 1979, 52 percent were re-arrested during the first two years of parole supervision. Of the parolees who were re-arrested, 77 percent were convicted for crimes committed while on parole. Given the very high percentage of parolees released at the time of initial parole consideration and the very high rate of recidivist criminal activity among those released, the policies and procedures of the D.C. Board of Parole were called into serious question.

We also pointed out that despite the large number of D.C. parolees who commit crimes following parole release, parole apparently was revoked in a relatively small percentage of the cases. In that regard, the D.C. Board of Parole reported that of those parolees in its 1977-1979 sample who were convicted of crimes while on parole, parole was revoked because of the new offense in less than one half of the cases. Although the reason for this statistic was not explained, it appears that it may be attributed to the D.C. Parole Board policy of not issuing parole violator warrants for certain offenses. In this regard, the Board listed in its 1982 Annual Report the types of offenses it terms "Eligible Offenses" for purposes of issuance of parole violator warrants. It appears that as a matter of policy, the Board will not issue parole violator warrants for burglary of commercial establishments, possession of firearms (unless the defendant is arrested with the weapon in his hand or on his person), grand larceny, embezzlement, fraud, forgery and uttering and for a host of other violations of the District of Columbia Code or the United States Code.

This apparent policy which allows substantial numbers of parolees to continue on parole even after arrest and conviction of serious crimes was of significant concern to us in the past. If these matters have not yet been completely remedied, and it may be too early to conclude that they have, then similar concern is presently warranted. Under H.R. 2050, the jurisdiction of the D.C. Board of Parole would be substantially expanded to include those D.C. Code offenders presently under the jurisdiction of the U.S. Parole Commission. These offenders, however, include some of the most dangerous and violent criminals convicted in the District of Columbia. Premature release of such individuals pursuant to existing parole policies would pose a real and direct threat to law enforcement interests in the District of Columbia.

We believe it is time for a thorough legislative review of District of Columbia sentencing and correctional practices. A major expansion of the capacity of D.C. correctional facilities is essential. The Federal Bureau of Prisons is seriously overcrowded

and can no longer accept the overload of the District of Columbia system. This is especially true in light of the increased D.C. prison population that would result, at least temporarily, from a more responsibly run parole system. Replacement of the parole system in the District of Columbia by a sentencing guideline system similar to that adopted by Congress in the Comprehensive Crime Control Act of 1984 should be considered. While expansion of the D.C. inmate capacity must begin at once, other changes can be more thoroughly considered than is done in H.R. 2050.

The Office of Management and Budget has advised this Department that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGISLATIVE AND INTERGOVERNMENTAL AFFAIRS,
Washington, DC, July 31, 1985.

Hon. RONALD V. DELLUMS,
Chairman, Committee on District of Columbia, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This is to proffer the views of the Department of Justice on H.R. 2946, a bill that would establish an independent jury selection system for the Superior Court of the District of Columbia. While we believe that some of the changes from current law contained in H.R. 2946 would constitute significant improvements over the jury selection system now in effect in the federal courts, we oppose the bill for the reasons set forth below.

Jury selection for both the Superior Court of the District of Columbia and the United States District Court for the District of Columbia is now governed by a single process established by the Jury Selection and Service Act (28 U.S.C. 1861, *et seq.*) and administered by the United States District Court for the District of Columbia. If H.R. 2946 were enacted, there would exist within the District of Columbia two separate jury selection systems—one for the local trial court and one for the federal trial court. Inevitably, such a bifurcated approach would entail administrative difficulties, duplication of effort, and additional cost to the federal government, notwithstanding the provision of the bill that encourages the federal and local courts to share resources and facilities to the extent feasible.

H.R. 2946 would improve the current jury selection system by broadening the base of persons who can be summoned for jury duty, by narrowing the number of automatic exclusions from jury service, and by increasing the penalties for certain fraudulent conduct in the jury selection process. However, we are not persuaded that the prospect of such advances warrants the establishment of another jury selection system in the District of Columbia, with all of the drawbacks that such a course would entail. Rather, we think the better course would be to consider amending the Jury Selection and Service Act to incorporate the improvements contained in H.R. 2946. Such an approach would improve the jury selection process not only in the Superior Court but in all federal courts. Equally important, it would preserve the unified selection system currently in effect in the District of Columbia, thereby avoiding the administrative and financial costs of a bifurcated system.

The Office of Management and Budget has advised that there is no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

PHILLIP D. BRADY,
Acting Assistant Attorney General.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

[From the Congressional Record—House, Oct. 28, 1985]

DISTRICT OF COLUMBIA JUDICIAL EFFICIENCY AND IMPROVEMENT ACT OF 1985

Mr. DELLUMS. Mr. Speaker, by direction of the Committee on the District of Columbia, I call up the bill (H.R. 3578) to provide permanent authority for hearing commissioners in the District of Columbia courts, to modify certain procedures of the District of Columbia Judicial Nomination Commission and the District of Columbia Commission on Judicial Disabilities and Tenure, and for other purposes, and ask unanimous consent that the bill be considered in the House as in the Committee of the Whole.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the bill, as follows:

H.R. 3578

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Prosecutorial and Judicial Efficiency Act of 1985".

SEC. 2. ANNUAL REPORT ON PROSECUTIONS.

Not later than March 1 of each year, the United States attorney for the District of Columbia shall compile and make available an annual report concerning prosecutions, under the laws of the District of Columbia and the laws of the United States applicable exclusively to the District of Columbia, conducted by the Office of the United States attorney for the District of Columbia in the previous calendar year. Such report shall include the number of prosecutions and convictions by category and nature of offense, and shall include any recommendations concerning the criminal justice system in the District of Columbia.

SEC. 3. HEARING COMMISSIONERS.

Section 11-1732 of title 11 of the District of Columbia Code is amended to read as follows:

"§ 11-1732. Hearing commissioners.

"(a) The chief judge of the Superior Court may appoint and remove hearing commissioners who shall serve in the Superior Court and perform the duties enumerated in subsection (c) of this section and such other duties as are consistent with the Constitution and laws of the United States and of the District of Columbia and are assigned by rule of the Superior Court.

"(b) No individual may be appointed or serve as a hearing commissioner under this section unless such individual has been a member of the bar of the District of Columbia for at least three years.

"(c) A hearing commissioner, when specifically designated by the chief judge of the Superior Court, may perform the following functions:

"(1) Administer oaths and affirmations and take acknowledgments.

"(2) Determine conditions of release and pretrial detention pursuant to the provisions of title 23 of the District of Columbia Code (relating to criminal procedure).

"(3) Conduct preliminary examinations in all criminal cases to determine if there is probable cause to believe that an offense has been committed and that the accused committed it.

"(4) Subject to the provisions of subsection (d), with the consent of the parties involved, make findings in uncontested proceedings, and in contested hearings in the civil, criminal, and family divisions of the Superior Court.

"(d)(1) With respect to proceedings and hearings under subsection (c)(4), a rehearing of the case, or a review of the hearing commissioner's findings, may be made by a judge of the appropriate division sua sponte and shall be made upon a motion of one of the parties, which motion shall be filed within ten days after the judgment.

An appeal to the District of Columbia Court of Appeals may be made only after a review hearing is held in the Superior Court.

"(2)(A) In any case brought under sections 11-1101 (1), (3), (10), or (11) involving the establishment or enforcement of child support, or in any case seeking to modify an existing child support order, where a hearing commissioner in the Family Division of the Superior Court finds that there is an existing duty of support, the hearing commissioner shall conduct a hearing on support, make findings, and enter judgment.

"(B) If in a case under subparagraph (A), the hearing commissioner finds that a duty of support exists and makes a finding that the case involves complex issues requiring judicial resolution, the hearing commissioner shall establish a temporary support obligation and refer unresolved issues to a judge.

"(C) In the cases under subparagraphs (A) and (B) in which the hearing commissioner finds that there is a duty of support and the individual owing that duty has been served or given notice of the proceedings under any application statute or court rule, if that individual fails to appear or otherwise respond, the hearing commissioner shall enter a default order.

"(D) A rehearing or review of the hearing commissioner's findings in a case under subparagraphs (A) and (B) may be made by a judge of the Family Division sua sponte. The findings of the hearing commissioner shall constitute a final order of the Superior Court.".

SEC. 4. APPOINTMENT OF EXECUTIVE OFFICER OF THE DISTRICT OF COLUMBIA COURTS.

Section 11-1703 of title 11 of the District of Columbia Code is amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (a) the following new subsection:

"(b) The Executive Officer shall be appointed, and subject to removal, by the Joint Committee on Judicial Administration with the approval of the chief judges of the District of Columbia courts. In making such appointment the Joint Committee shall consider experience and special training in administrative and executive positions and familiarity with court procedures.

"(c) The Executive Officer shall be a bona fide resident of the District of Columbia or become a resident not more than 180 days after the date of appointment.".

SEC. 5. MANDATORY RETIREMENT AGE OF JUDGES.

Section 431(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out "Seventy" and inserting in lieu thereof "seventy-four".

SEC. 6. APPOINTMENT PANEL FOR THE BOARD OF TRUSTEES OF THE PUBLIC DEFENDER SERVICE.

(a) COMPOSITION OF APPOINTMENT PANEL.—Section 303 of the District of Columbia Court Reform and Criminal Procedure Act of 1970 (D.C. Code, 1-2703) is amended in subsection (b)(1)—

(1) by striking out subparagraph (A); and

(2) by redesignating subparagraphs (B), (C), (D), and (E) as subparagraphs (A), (B), (C), and (D), respectively.

(b) PRESIDING OFFICER.—Section 303 of such Act (D.C. Code, 1-2703) is further amended in subsection (b)(2) by striking out "Chief Judge of the United States Court of Appeals for the District of Columbia Circuit" and inserting in lieu thereof "Chief Judge of the District of Columbia Court of Appeals".

SEC. 7. REORGANIZATION OF AUDIT RESPONSIBILITY.

(a) AUDITOR-MASTER.—Section 11-1724 of title 11 of the District of Columbia Code is amended—

(1) by striking out "(1) audit and state fiduciary accounts,"; and

(2) by respectively designating clauses (2) and (3) as clauses "(1)" and "(2)".

(b) REGISTER OF WILLS.—Section 11-2104(a) of title 11 of the District of Columbia Code is amended—

(1) in paragraph (2) by striking out "and" after the semicolon;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting at the end thereof the following new paragraph:

"(4) audit and state fiduciary accounts.".

SEC. 8. ELIMINATION OF DUPLICATE JUDICIAL FINANCIAL REPORTING REQUIREMENT.

(a) TERMINATION OF FEDERAL DISCLOSURE REQUIREMENTS.—Section 303 of the Ethics in Government Act of 1978 (28 U.S.C. App. 301) is amended by inserting at the end thereof the following new subsection:

"(h) The provisions of this Act shall not apply to any judicial officer or employee of the Superior Court of the District of Columbia or the District of Columbia Court of Appeals.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 308(9) of such Act (28 U.S.C. App. 308(9)) is amended by striking out "courts of the District of Columbia".

SEC. 9. CERTIFICATION OF QUESTIONS OF LAW.

Subchapter II of Chapter 7, title 11, District of Columbia Code, is amended by inserting after section 11-722 the following new section:

"§ Sec. 11-723. Certification of Questions of Law.

"(a) The District of Columbia Court of Appeals may answer questions of law certified to it by the Supreme Court of the United States, a Court of Appeals of the United States, or the highest appellate court of any State, if there are involved in any proceeding before any such certifying court questions of law of the District of Columbia which may be determinative of the cause pending in such certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the District of Columbia Court of Appeals.

"(b) This section may be invoked by an order of any of the courts referred to in subsection (a) upon the court's motion or upon motion of any party to the cause.

"(c) A certification order shall set forth (1) the question of law to be answered; and (2) a statement of all facts relevant to the questions certified and the nature of the controversy in which the questions arose.

"(d) A certification order shall be prepared by the certifying court and forwarded to the District of Columbia Court of Appeals. The District of Columbia Court of Appeals may require the original or copies of all or such portion of the record before the certifying court as are considered necessary to a determination of the questions certified to it.

"(e) Fees and costs shall be the same as in appeals docketed before the District of Columbia Court of Appeals and shall be equally divided between the parties unless precluded by statute or by order of the certifying court.

"(f) The District of Columbia Court of Appeals may prescribe the rules of procedure concerning the answering and certification of questions of law under this section.

"(g) The written opinion of the District of Columbia Court of Appeals stating the law governing any questions certified under subsection (a) shall be sent by the clerk to the certifying court and to the parties.

"(h)(1) The District of Columbia Court of Appeals, on its own motion or the motion of any party, may order certification of questions of law to the highest court of any State under the conditions described in subsection (a).

"(2) The procedures for certification from the District of Columbia to a State shall be those provided in the laws of that State.".

SEC. 10. PUBLIC ACCESS TO MATERIALS OF JUDICIAL NOMINATION COMMISSION.

Section 434(c)(3) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out the last sentence and inserting in lieu thereof: "Information, records, and other materials furnished to or developed by the Commission in the performance of its duties under this section shall be privileged and confidential. Section 552 of title 5, United States Code, (known as the Freedom of Information Act) shall not apply to any such materials.".

SEC. 11. MEETINGS OF THE JUDICIAL NOMINATION COMMISSION.

Section 434(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof "Meetings of the Commission may be closed to the public. Section 742 of this Act shall not apply to meetings of the Commission.".

SEC. 12. PUBLIC ANNOUNCEMENT OF JUDICIAL RECOMMENDATIONS.

Section 434(d) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by inserting at the end thereof the following new paragraph:

"(4) Upon submission to the President, the name of any individual recommended under this subsection shall be made public by the Judicial Nomination Commission.".

SEC. 13. DISCLOSURE OF CERTAIN INFORMATION TO THE JUDICIAL NOMINATION COMMISSION.

Section 11-1528 of title 11, District of Columbia Code, is amended by striking out all of subsection (a) and inserting in lieu thereof the following:

"(a)(1) Subject to paragraph (2), the filing of papers with, and the giving of testimony before, the Commission shall be privileged. Subject to paragraph (2), hearings before the Commission, the record thereof, and materials and papers filed in connection with such hearings shall be confidential.

"(2)(A) The judge whose conduct or health is the subject of any proceedings under this subchapter may disclose or authorize the disclosure of any information under paragraph (1).

"(B) With respect to a prosecution of a witness for perjury or on review of a decision of the Commission, the record of hearings before the Commission and all papers filed in connection with such hearing shall be disclosed to the extent required for such prosecution or review.

"(C) Upon request, the Commission shall disclose, on a privileged and confidential basis, to the District of Columbia Judicial Nomination Commission any information under paragraph (1) concerning any judge being considered by such nomination commission for elevation to the District of Columbia Court of Appeals or for chief judge of a District of Columbia court.".

SEC. 14. REAPPOINTMENT TO JUDICIAL OFFICE.

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended—

(1) in the first sentence by striking out "three months" and inserting in lieu thereof "six months"; and

(2) in the second sentence, by striking out "thirty" and inserting in lieu thereof "sixty".

SEC. 15. MODIFICATION OF JUDICIAL REAPPOINTMENT EVALUATION CATEGORIES.

Section 433(c) of the District of Columbia Self-Government and Governmental Reorganization Act is amended in the third sentence by striking out "exceptionally well-qualified or".

SEC. 16. SERVICES OF RETIRED JUDGES.

Section 11-1504(a) of title 11, District of Columbia Code, is amended by striking out paragraphs (2) and (3) and inserting after paragraph (1) the following new paragraph:

"(2) At any time prior to or after retirement, a judge may request recommendation from the District of Columbia Commission on Judicial Disabilities and Tenure (hereinafter in this section referred to as the "Commission") to be appointed as a senior judge in accordance with this section.".

SEC. 17. EXTENSION OF PERIOD FOR SUBMITTING JUDICIAL NOMINATIONS.

Section 434(d)(1) of the District of Columbia Self-Government and Governmental Reorganization Act is amended by striking out "thirty days" each place it appears and inserting in lieu thereof "sixty days".

SEC. 18. EFFECTIVE DATE.

This Act shall take effect on the date of the enactment of this Act.

COMMITTEE AMENDMENTS

The SPEAKER pro tempore. The Clerk will report the first committee amendment.

The Clerk read as follows:

Committee amendment: Page 2, strike out line 3 and insert in lieu thereof "Judicial Efficiency and Improvement Act of 1985".

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that the committee amendments be considered en bloc, considered as read, and printed in the Record.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The remaining committee amendments are as follows:

Committee amendments: Page 7, line 6, strike out "subsection (b)(2)" and insert in lieu thereof "subsection (b)(1)".

Page 7, line 7, strike out "Chief Judge" and insert in lieu thereof "chief judge".

Page 8, line 5, strike out "Section 303" and insert in lieu thereof "Section 301".

Page 8, line 16, insert "(a) IN GENERAL.—" before "Subchapter II".

Page 10, after line 11, insert the following new subsection:

(b) TECHNICAL AMENDMENT.—The table of sections for such subchapter is amended by adding at the end thereof the following new item:

"11-723. Certification of questions of law."

Page 12, line 22, strike out "second" and insert in lieu thereof "third".

Page 13, line 5, strike out "third" and insert in lieu thereof "fourth".

Page 13, line 14, strike out "'Commission'" and insert in lieu thereof "'Commission'".

Page 5, strike out line 4 and all that follows through line 8 on page 5 and insert in lieu thereof the following:

"(D)(1) Subject to paragraph (2), the findings of the hearing commissioner shall constitute a final order of the Superior Court.

"(2) A rehearing or review of the hearing commissioner's findings in a case under subparagraphs (A) and (B) may be made by a judge of the Family Division sua sponte and shall be made upon a motion of one of the parties, which motion shall be filed within ten days after the judgment. An appeal to the District of Columbia Court of Appeals may be made only after a hearing is held in the Superior Court."

Mr. DELLUMS. Mr. Speaker, I simply wish to explain briefly that the committee amendments presented to the body are perfecting amendments, and I ask that they be approved.

The SPEAKER pro tempore. The question is on the committee amendments.

The committee amendments were agreed to.

Mr. DELLUMS. Mr. Speaker, I move to strike the last word.

Mr. Speaker, this bill makes certain changes in the local courts in Washington, DC, suggested by local practitioners, officials, and the courts, and makes permanent authority for hearing commissioners, authority which Congress has granted from year to year in appropriation bills.

Hearings were held before our Subcommittee on the Judiciary and Education chaired by the gentleman from California [Mr. Dymally], with the ranking minority member being the distinguished gentleman from Virginia [Mr. Bliley], each of whom will give a further explanation of the bill at the appropriate time.

With the brief introductory set of remarks, Mr. Speaker, I yield back the balance of my time.

Mr. DYMALLY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, since the 98th Congress, the Subcommittee on Judiciary and Education has focused its attention on improving the administration of Justice in the District of Columbia, and at the same time transferring to the District authority over its agencies, consistent with the legislative intent underlying the District of Columbia Court Reform and Criminal Procedure Act of 1970 and the District of Columbia Self-Government Act and Government Reorganization Act of 1973, as amended.

This legislation emanates from these significant legislative developments. It reflects both self-government considerations and the improvement and efficiency of the local judicial system. The bill itself evolves from recommendations of the District of Columbia Court Study Committee and the District of Columbia courts.

A brief history of its development are in order. In 1978, the District of Columbia Bar Association formed the District of Columbia Court Study Committee. This committee (commonly known as the Horsky Committee) was charged with evaluating the District of Columbia Court Reform and Criminal Procedure Act of 1970 and making appropriate recommendations for improving the judicial system. Over a 4-year period, the court study committee conducted its mission. Certain provisions in this bill represent the committee's work product.

In sum, H.R. 3578 would create permanent authority for District of Columbia hearing commissioners, eliminate duplicate judicial financial reporting, provide authority for the District of Columbia Court of Appeals to answer certain undecided questions of District of Columbia law pending in other courts and amend a panoply of provisions involving judicial nomination, reappointment, and tenure processes.

It would also require the U.S. attorney to publish an annual report regarding its District of Columbia criminal justice activity. Further, it would modify the appointment panel for the Board of Trustees of the Public Defender Service.

These noncontroversial provisions would further improve local judicial nomination and tenure processes and at the same time move the local government one step further toward self-government. Most important, it is estimated that the bill would save the local government over $600,000 a year at no cost to the Federal Government.

Mr. BLILEY. Mr. Speaker, I move to strike the last word.

Mr. Speaker, I rise to support the passage of H.R. 3578. This bill makes a number of minor, but important and needed corrections in the procedures and efficiency of the District of Columbia courts.

Mr. Dymally, the chairman of the Judiciary and Education Subcommittee, was diligent in his efforts to craft a piece of valuable legislation that all parties could agree to. I am pleased to be able to lend my support to his efforts and to thank him for his bipartisan spirit.

Mr. Speaker, the minority members of the District of Columbia committee support passage of H.R. 3578.

Mr. DELLUMS. Mr. Speaker, I move the previous question on the bill.

The previous question was ordered.

The bill was ordered to be engrossed and read a third time, and was read the third time, and passed and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELLUMS. Mr. Speaker, I ask unanimous consent that all members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.